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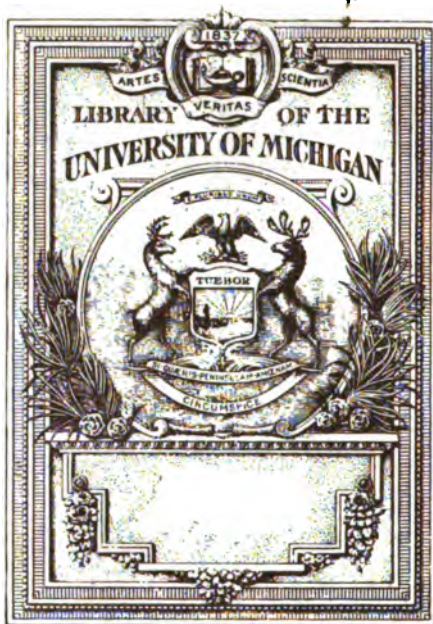
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LEGISLATURE OF WEST VIRGINIA

BILLS OF THE

HOUSE OF DELEGATES

OF

Regular and Extra Sessions

1921



CHARLESTON
THE TRIBUNE PRINTING CO
1921

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House Bill No. 523

Being House Bill No. 523 and Senate Bill No. 339.

[By MR. McCLINTIC, of Kanawha]

Chairman of the Good Roads Committee appointed by the Governor under Senate Joint Resolution No. 21, session 1919.

Introduced in the House by Mr. McClintic (of Kanawha), January 26, 1921; ordered printed and referred to Special Good Roads Committee and House and Senate Committees on Roads. Introduced in

A BILL to amend, re-enact, codify and embrace in one act all the general laws of the state of West Virginia on the subject of public roads, ways and bridges; to provide a complete system of law governing the construction of the same and the regulation of traffic thereon; to classify such roads and to provide for a system of state roads and highways connecting the various county seats of the state, and to be under the control and supervision of the State Road Commission, its officers and agents; to provide for the cooperation of the state and federal Government in the construction and maintenance of such roads; to create a state road commission and prescribe the duties and define the powers thereof and of all state and local officers engaged in the administration of road laws of this state, and for other purposes.

Be it Enacted by the Legislature of West Virginia:

Section 1. The purpose of this, act is to amend, re-enact
2 codify and embrace in one act all the general laws of this state on
3 the subject of public roads, ways and bridges; to provide a com-
4 plete system of law governing the construction and maintenance
5 of public roads and ways, and the regulation of traffic thereon;
6 to classify such roads and provide for a connecting system of
7 state roads and highways throughout the state, including in such
8 system connection with the various county seats of the state with
9 each other, and with the leading highways of other states; to pro-
10 vide for the co-operation of the state and federal governments in
11 the construction and maintenance of such roads; to create a
12 "State Road Commission" and prescribe the duties and define

13 the powers thereof, and of all state and local officers engaged in
 14 the administration of the road laws of this state; and this act
 15 shall be liberally construed so as to effectuate the purposes thereof
 16 as herein set forth.

Sec. 2. The term "public road", "highway", or "road", shall
 2 be deemed to include the road-bed and all necessary culverts,
 3 sluices, drains, ditches, waterways, embankments, slopes, retain-
 4 ing walls, bridges, tunnels and viaducts necessary for the mainten-
 5 ance of travel, dispatch of freight and communication between
 6 individuals and communities; and such public road or highway
 7 shall be taken to include any road to which the public has access
 8 and which it is not denied the right to use, or any road or way
 9 leading from any other public road over the land of one or more
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10 persons to the land of another person, and which shall have been
 11 established pursuant to law. Any road shall be conclusively pre-
 12 sumed to have been so established when it has been used by the
 13 public for a period of ten years, or more, and public moneys or
 14 labor have been expended thereon, whether there be any record
 15 of its dedication or appropriation to public use or not. In the
 16 absence of any other mark or record, the center of the traveled
 17 way shall be taken as the center of the road, and the right of way
 18 shall be designated therefrom an equal distance on each side, but
 19 a road may be constructed on any part of the located right of
 20 way when it is deemed advisable so to do; *provided*, a proper plat
 21 and record of such right of way for a county-district road, show-
 22 ing the exact location thereof, shall be entered of record by the
 23 county court of the county in which such road is to be constructed;
 24 and *provided*, a proper plat and record of such right of way for
 25 a state road shall be entered of record by the State Road Com-
 26 mission as hereinafter provided.

Sec. 3. The public roads of this state shall be divided into two
 2 classes, to be known respectively, as "State Roads" and "County-
 3 District Roads". "State Roads" shall include all roads which by
 4 the provisions of this act shall have come under the control or
 5 supervision of the State Road Commission. "County-District
 6 Roads" shall include all other public roads.
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Sec. 4. The authority and control over the construction,
 2 maintenance and regulation of all public roads within the state is

3 hereby vested in the State Road Commission, and in the several
4 county courts, respectively, to the extent and under the provisions
5 and regulations herein prescribed. The State Road Commission
6 shall have and exercise the superintendence and administration
7 of the construction, reconstruction, maintenance and repair of
8 state roads only, except as in this act specified. Such county
9 courts under the regulations aforesaid shall have the superin-
10 tendence and administration of the construction, reconstruction,
11 repair and maintenance of county-district roads only, except as
12 may be specified in this act.

Sec. 5. The Legislature of the State of West Virginia hereby
2 assents to the provisions of this act of Congress approved July the
3 11th, 1916,, entitled "An Act to provide that the United States
4 shall aid the states in the construction of rural post roads and for
5 other purposes." The State road Commission is hereby authorized
6 to enter into all contracts and agreements with the United States
7 Government relating to the survey, construction and maintenance
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8 of roads under the provisions of the said Act of Congress, to sub-
9 mit such scheme or program of construction and maintenance as
10 may be required by the secretary of agriculture, and do all other
12 things necessary to carry out the cooperation contemplated and
13 provided for by the said act. For the construction and main-
14 tenance of rural post roads, the good faith of the state is hereby
15 pledged to the government of the United States to make available
16 funds sufficient to equal the sums apportioned to this state by the
17 United States Government during the period for which federal
18 funds are appropriated by section three of the said Act, and to
19 maintain the roads constructed with the aid of funds so appro-
20 priated, and to make adequate provision for carrying out such
21 maintenance.

22 The State of West Virginia hereby further assents to any
23 similar provision or provisions that may be made by any sub-
24 sequent Act of Congress making appropriation for the survey,
25 construction and maintenance of rural post roads.

Sec. 6. The term "Commission", or "Road Commission" when
2 used in this act, shall mean the State Road Commission of West
3 Virginia, created hereby, unless otherwise specified or clearly
4 intended.

5 There shall be, and there is hereby created a commission to be
6 known as "The State Road Commission of West Virginia", and
7 the same is hereby made a body corporate, and by that name the
8 commission may sue, and be sued; plead, and be impleaded;
9 contract and be contracted with. The said Commission shall con-
10 sist of three members of well known and successful business quali-
11 fications, who shall be appointed by the governor, with the advise
12 and consent of the senate, not more than two of whom shall be-
13 long to the same political party. The governor shall appoint
14 the said commission as soon as may be after this act becomes
15 effective, and before the first day of June 1921, and shall designate
16 the chairman thereof. The said commissioners shall imme-
17 diately enter upon their duties and hold office for two, four and
18 six years, respectively, from the first day of June, 1921, the term
19 of each to be designated by the governor, but their successors
20 shall be appointed for the term of six years, excepting that any
21 person appointed to fill a vacancy shall serve only for the unex-
22 pired term, and any commissioner shall be eligible for reappoint-
23 ment; *provided*, that not more than two of the commissioners
24 serving at any one time shall have been appointed from the
25 same political party. The commissioners, before entering upon
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26 their duties, shall take, subscribe and file with the secretary of
27 state the oath prescribed by section five of article four of the
28 constitution. The said commissioners shall each execute a bond,
29 to be approved by the governor, in the penalty of ten thousand
30 dollars, conditioned according to law, which bond shall be filed
31 with the secretary of state, and there preserved and recorded
32 as are other bonds required of state officials. The governor may
33 remove any commissioner in the manner provided by the consti-
34 tution of this state. No person while in the employ of, or hold-
35 ing any official relation to any person, firm or corporation selling
36 or furnishnig any materials entering into the construction, re-
37 construction, repair or maintenance of any road or highway of
38 this state, or any part thereof, or who is pecuniarily interested
39 therein, shall hold said office; nor shall the said commission ap-
40 point hereunder any person or persons as engineers, superintend-
40 ents, or foremen sustaining such relation to such person, firm or
41 corporation, nor shall such engineers, superintendents, or foremen

thereafter become in any way connected with or interested in any such person, firm or corporation while in the employ of the commission; nor shall any of said commissioners or any engineers, superintendent or foreman appointed by it be a candidate for, or

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hold any public office other than that of commissioner or employment under said commission, or be a member of any political committee either while acting as such commissioner or while holding employment thereunder. In case either of said commissioners, servants or employees shall be a candidate for any other public office, or shall be a member of any political committee, his office as a commissioner or position as employee, as the case may be, shall be *ipso facto* vacated.

Sec. 7. Upon the appointment and qualification of the members of the commission they shall at once proceed to organize. The commission shall make necessary rules and regulations for its own government, shall appoint a secretary, and shall have power and authority to select all such other assistants, agents and employees as may be necessary in the performance of its duties, and for the purpose of carrying out the provisions of this act, and shall fix their compensation, and require from them bonds to be approved by the commission, conditioned according to law; *provided, however*, that the total compensation paid for any such assistants, agents and employees shall not exceed in any one year the appropriation made by the legislature for that purpose; and *provided, further*, that any of the county courts of the several H. B. No. 523]

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counties of the state may enter into an agreement with the said commission, by which services shall be rendered to such court by any such assistant, agent or employee, and such court shall provide for and pay the necessary expenses incident thereto. All appointees or employees of the commission shall be subject to removal by it at its discretion. Each commissioner shall devote his entire time to the performance of the duties of his office, and shall receive a salary at the rate of seven thousand five hundred dollars per annum, and the actual expenses incurred in the discharge of the duties of his office, to be paid monthly. The chairman and the secretary shall certify to the state auditor the amount due each members and each employee of said commission, and the auditor shall issue his warrant therefor on the state treasury,

27 payable out of the state road fund appropriated for such pur-
28 purpose.

Sec. 8. The State Road Commission shall be provided by the
2 state with suitable office rooms in the city of Charleston, and its
3 offices shall be open at all reasonable times for the transaction of
4 public business. The said commission shall make a full report
5 each year to the governor of its operations, showing the quantity
6 of earth and stone removed, and material prepared and manu-

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7 factured; the number of miles and location of roads under con-
8 struction, and the number and location of roads completed, and
9 especially such roads as have been taken over by the Commission
10 for maintenance or construction; the cost of such construction
11 and maintenance, and the materials prepared and used therein;
12 the condition and needed repairs of roads previously constructed
13 and taken over by the commission, together with the result of
14 their investigation respecting previously constructed roads and
15 the materials used therein, and the cost of maintenance thereof;
16 detailed statements of its expenses; and for the purpose of obtain-
17 ing all necessary and detailed information to be used in the
18 preparation of said report, the said commission may require the
19 several county courts, or local road authorities, in whose counties
20 work is done, or contemplated, to furnish such monthly reports
21 as may be prescribed by said commission; and the commission
22 shall make such other reports concerning the roads of the state,
23 and particularly state roads and the progress of their improve-
24 ments, as may be proper or required by the governor; and may
25 make such recommendations or reports as in its judgment are
26 beneficial to the general public. The report herein provided to be
27 made to the governor shall be accompanied with a map or maps
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28 showing the location and improvement of all roads receiving fed-
29 eral aid up to the time of the completion of said report.

Sec. 9. The attorney general of this state shall be the legal
2 adviser and the representative of said State Road Commission,
3 and shall prepare for it all contracts, forms and other documents,
4 when required by said commission.

Sec. 10. It shall be the duty of the commission to keep a full,
2 true and accurate record of all its proceedings, to issue all nec-
3 essary notices, to keep all books, maps, documents and papers

4 ordered filed by it, and all orders, rules and regulations by it
5 made or approved. It shall be responsible for the safe custody
6 and preservation of all such documents and papers in its office.
7 Each member thereof may administer oaths in all parts of the
8 state, as far as the exercise of such power is properly incidental
9 to the performance of the duties of the commission. It shall
10 issue all licenses, permits, registration certificates, receipts and
11 other official documents provided for by this act; shall publish, at
12 its discretion, the rules and regulations promulgated by it, and
13 keep the proper records thereof. The Commission shall make a
14 full report in duplicate once each week to the treasurer and the
15 auditor of the state and forthwith pay to such treasurer all moneys

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16 collected by it from licenses or other fees, and all moneys and
17 funds coming into its hands from any source.

Sec. 11. The State Road Commission shall cause to be made
2 and kept for its department a general road or highway plan of the
3 state; and compile statistics and collect information relative to
4 the mileage, character and condition of the roads and highways in
5 the counties and magisterial districts of the state. It shall investi-
6 gate and determine upon the various methods of road construction
7 best adapted to the various sections of the state; and establish
8 standards for the construction and maintenance of roads and
9 highways in various sections, taking into consideration the topo-
10 graphy of the county, the natural conditions, and the character and
11 availability of road building material, and the ability of the coun-
12 ties and magisterial districts to build and maintain roads under
13 the provisions of this act. It may at all reasonable times be con-
14 sulted by county magisterial districts, city or incorporated town
15 officers having authority over roads, highways and bridges, and
16 shall, when required, advise and give information to such officers
17 relative to the construction, repair, alteration and maintenance
18 of such roads, highways and bridges. It shall, at all times, lend
19 its aid in promoting road improvement throughout the state, and
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20 shall prepare and compile all useful information relative to road
21 building and maintenance, and shall disseminate such informa-
22 tion by means of printed bulletins, issued at such times and in
23 such numbers as it may deem best.

Sec. 12. At the request of the State Road Commission it shall

2 be the duty of the commissioner of agriculture, the dean of the
3 college of engineering of the State University, the director of
4 the experiment station of said University, and the heads of the
5 several departments of science of said institution, to render to
6 said Commission all necessary aid and assistance in the per-
7 formance of its duties as the requirements of their respective
8 offices and positions will permit, without extra charge or compen-
9 sation for such service.

Sec. 13. The State Road Commission is hereby authorized
2 and empowered to make and enforce from time to time such rules,
3 regulations and orders as it may deem necessary, not inconsistent
4 with law or otherwise provided herein, for the preservation of
5 state roads, and to regulate the use of the same by traction en-
6 gines, wagons and such other vehicles of conveyances as by such
7 uses produce more than an ordinary amount of wear and tear
8 thereon. Every general regulation adopted by the Commission

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9 shall state the date on which it takes effect, which shall not be less
10 than ten days after the date of publication. Such rules, regula-
11 tions and orders when and as promulgated or authorized, shall be
12 printed by the Commission for free distribution to any applicant
13 therefor. A copy of such rules and regulations, duly signed by
14 the chairman and the secretary of the commission, shall be sent
15 by the secretary to each officer and to each county court affected
16 thereby. Any person violating such order or regulation shall
17 be deemed guilty of a misdemeanor, and upon conviction thereof
18 shall be fined not less than one, nor more than one hundred dollars,
19 or imprisoned for not less than ten days or more than three
20 months, or both fined and imprisoned, at the discretion of the
21 court or justice trying the case.

Sec. 14. As soon as may be practicable after the passage of this
2 act the State Road Commission shall locate and establish, by sur-
3 vey or otherwise, a system of roads connecting at least the various
4 county seats of the state with each other and with the adjoining
5 states, and for that purpose shall establish as a basis for such
6 system the roads which are known as Class A roads and routes
7 as of the date of the passage of this act; *provided*, the said Com-
8 mission is hereby authorized and empowered to locate and estab-
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9 lish state roads wherever in its opinion it can thereby improve

10 the alignment or grade, or provide a more direct route connect-
11 ing the county seats of the state with each other and with the
12 adjoining states. The roads so located and established by the
13 Commission shall be designated and known as "The State Road
14 System."

Sec. 15. The State Road Commission as soon as practicable
2 after it has located and established a system of state roads, as
3 provided in the preceding section, shall furnish to the clerks of
4 the county courts of the several counties of the state road maps
5 of their several counties, respectively, showing the state routes
6 designated by said Commission constituting the state road system.
7 As sections of such routes are taken over by the State Road Com-
8 mission for maintenance or are constructed the Commission shall
9 deliver to the clerk of the county court of each county in which
10 such roads so taken shall lie, complete record plans of such roads,
11 together with accurate descriptions by metes and bounds of the
12 rights of way thereof, and the said clerk shall file in his office such
13 record plans as record such descriptions of rights of way in the
14 road record book in his office.

Sec. 16. No bridge hereafter constructed on any state road,

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2 shall be less than eighteen feet wide. All state roads shall occupy
3 a right of way not less than forty feet, exclusive of slopes for cuts
4 and fills, unless the Commission shall make an order for a different
5 width, which order shall be recorded in the office of the Commis-
6 sion, and a duly certified copy thereof shall be delivered by the
7 Commission to the clerk of the county court of the county in
8 which such roads shall lie, and the same shall be recorded by the
9 said clerk in the road record book in his office.

Sec. 17. As soon as may be after the passage of this act, and
2 when funds are available for that purpose, the State Road Com-
3 mission shall, by an order entered of record and by the proclamation
4 of the governor, take over and assume charge of the further con-
5 struction, reconstruction and maintenance of all roads, or sections
6 of roads on the state routes in the several counties which have
7 been improved with a hard surface, and which in the opinion of the
8 Commission shall have been constructed and maintained in ac-
9 cordance with approved methods, or in accordance with recognized
10 standard plans and specifications, and said Commission shall also
11 in like manner take over and assume charge of the further main-

12 tenance of all graded earth roads on state routes which have been
13 constructed with the aid of the state or federal moneys; *provided*,
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14 that no roads lying within any incorporated town or city having
15 a population of over two thousand five hundred persons shall be
16 so taken over by the Commission; *provided, further*, that certified
17 copies of the order required herein to be entered by the Commis-
18 sion shall be delivered by it to the clerks of the county courts of
19 the several counties in which the roads to be taken over as pro-
20 vided by this section shall lie; and each of said clerks shall record
21 in the road record books in his office, the copies so delivered to him.

Sec. 18. The State Road Commission is hereby empowered and
2 directed to construct or improve and thereafter to maintain and
3 repair at the cost and expense of the state, the roads forming the
4 state road system in the several counties of the state, as soon as
5 such roads shall have been taken over by it, and such work of
6 improvement and maintenance shall be done according to specifi-
7 cations to be prepared by the State Road Commission as regards
8 the construction and material to be used, and the said work shall
9 be done under the direction and supervision of the Commission.
10 The expense of the construction, improvement and maintenance of
11 state roads provided for by this act, when properly certified by the
12 State Road Commission, shall be audited by the secretary and
13 when audited and allowed shall be paid out of moneys specifically

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14 appropriated for that purpose by warrants drawn therefor by the
15 secretary upon the state treasurer.

Sec. 19. The State Road Commission, in addition to the power
2 conferred upon it by this act, shall enjoy and possess, in the con-
3 struction and maintenance of the roads constituting a part of the
4 state road system, all the rights and powers conferred by this act
5 on county courts in the construction or maintenance of county-
6 district roads.

Sec. 20. All roads constituting parts of the State Road Sys-
2 tem, as designated and established by the Commission, not yet
3 constructed, or not embraced in the state road system required
4 to be taken over by the said Commission by the next preceding
5 section, shall be taken over in part from time to time, in the
6 manner hereinbefore provided, as the Commission shall be pre-
7 pared to proceed with construction work thereon, until the whole

8 of such roads shall have been taken over by the said Commission;
9 and when such roads are so taken over by the Commission they
10 shall thereafter be constructed and maintained under the superin-
11 tendence and administration of the State Road Commission.

Sec. 21. The State Road Commission, having regard for the
2 total amount of funds available each year for road construction
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3 purposes, shall annually fix and determine the total mileage of
4 state roads and highways to be built in the entire state during the
5 year, and this mileage, when so determined and fixed, shall be
6 apportioned, for construction, among the various counties of the
7 state in the proportion that the mileage of Class A roads or routes,
8 in each county in the state, as heretofore designated and approved
9 under existing law, bears to the total Class A road mileage, as
10 heretofore designated and approved, in the entire state. Said
11 mileage, when so apportioned, shall forthwith be constructed and
12 built in each county. Work shall begin, as near as may be,
13 simultaneously in all counties on this said *pro rata*, and shall be
14 continously pursued until completed.

15 *Provided, however*, that should it become necessary, in order
16 to make desirable connections, or to economize in construction, the
17 said road commission shall have authority to exceed in any county,
18 in any one year its then proper allotment by not more than twenty-
19 per centum thereof. To illustrate, if its allotment for the year
20 is ten miles, the commission may build said ten miles plus two and
21 one-half miles (twenty-five per centum thereof), or a total of
22 twelve and one-half miles; *provided, however*, that as both grad-
23 ing and surfacing are necessary to a completed road, as con-

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24 templated in this act, the said commission in any county, where
25 grade is required to be constructed, may, in any year, construct
26 grade only in double the total mileage to which said county is en-
27 titled in completed road, and surface the same the succeeding year.

Sec. 22. The State Road Commission before taking over any
2 road under the provisions of this act, shall give notice in writing
3 to the county court of any county, or the proper authorities of any
4 city or town in which said roads shall lie, of its intention so to
5 do, and of the date when the State Road Commission will assume
6 the maintenance and care thereof; *provided*, that any county or
7 incorporated town having a population of less than twenty-five

8 hundred persons, which may have in contemplation, or under con-
9 tract, or construction, the improvement of any portion of any
10 road or street constituting a part of a state road or route shall,
11 upon notice from the State Road Commission of its intention to
12 take over such road or street as herein provided, immediately notify
13 the State Road Commission of its intention to make said improve-
14 ments; whereupon the status of such road or street shall remain
15 the same as it was previous to the passage of this act, and the
16 county commissioners, or council of such incorporated town, as
17 the case may be, are authorized to complete the improvements of
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18 said highway at the expense of such county or town under the
19 direction and supervision of the State Road Commission; *provided*,
20 *further*, that upon the completion of any improvement, as afore-
21 said, or the expiration of a period not exceeding one year from
22 the date of the service of such notice by such county or incor-
23 porated town upon the Commission of its intention to make such
24 improvement, the said road shall become a state road, as herein
25 provided; *provided, further*, that where an agreement or contract
26 exists between any street railway company or other corporation or
27 firm, and any county or town containing a population of less than
28 twenty-five hundred persons, the terms of which require said street
29 railway company or other corporation or firm to construct or main-
30 tain any state road, the said agreement shall remain in force, and
31 the said commission shall succeed to and take over to itself all the
32 rights of said county or town existing under said agreement or
33 contract. The said street railway or other corporation or firm
34 shall be bound to carry out all of the requirements and comply
35 with all the terms and conditions of said agreement with the Com-
36 mission the same as though the said contract or agreement had
37 been originally made between the Commission and said street rail-
38 way company or other corporation or firm.

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Sec. 23. The State Road Commission when about to construct
2 or improve any road or highway shall give the county court of
3 each county in which it lies, a certified copy of plans and speci-
4 fications therefor, and a notice that said Commission is about to
5 enter upon and proceed with the work in question. If the said
6 work is to be done by contract, the Commission shall thereupon
7 advertise for at least two weeks in one or more newspapers pub-

8 lished in each county in which the road or highway lies, and for
9 three consecutive issues in at least one daily newspaper published
10 in the city of Charleston, for sealed proposals for the construction
11 or other improvements of said road or highway, accurately describ-
12 ing the same, and stating the time and place for opening said pro-
13 posals, and reserving the right to reject any and all proposals; said
14 proposals shall be promptly opened at the time and place speci-
15 fied in said advertisement, and the contract for such work, or
16 for the supplies and materials required for such work, shall be
17 awarded by the Commission to the lowest responsible bidder. In
18 case the Commission shall reject all bids, it may thereafter have
19 the work done in any other manner that may seem advisable, or
20 it may readvertise in the same manner as before, and let a contract
21 for such work pursuant thereto. The Commission shall not be
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22 required to advertise for proposals, or to award any contract for
23 work or for any materials or supplies for any amount less than
24 five hundred dollars in the aggregate. In all cases where the
25 contract for work and materials shall be let for competitive bid-
26 ding, the successful bidder shall promptly execute a formal con-
27 tract, to be approved as to its form, terms and conditions by said
28 Commission; and shall also execute and deliver to said Commis-
29 sion a good and sufficient surety bond to the State of West Vir-
30 ginia to be approved by said Commission in not less than one-half
31 of the amount of the contract price. To all such bids there shall
32 be attached the certified check of the bidder, and the bidder who
33 has the contract awarded to him, and who fails promptly and
34 properly to execute the contract and bond shall forfeit the said
35 contract. The said check shall be taken and considered as
36 liquidated damages, and not a penalty, for failure of said bidder
37 to execute said contract and bond. Upon the execution of said
38 contract and bond by a successful bidder, his check shall be return-
39 ed to him. The minimum amount of said check shall be five
40 hundred dollars; or in the discretion of the Commission, any
41 bidder may be required to furnish such check in an amount not
42 to exceed five per cent of his bid. The checks of the unsucces-

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43 ful bidders shall be returned to them after the bids are opened and
44 the contract awarded to the successful bidder.

Sec. 24. Every contract made by the State Road Commission,

2 under the provisions of this act, for the construction, reconstruc-
3 tion or improvement of State Roads, shall be made in the name of
4 the state, and shall be signed by the State Road Commission and
5 by such contractor, and shall be approved as to form and regularity
6 by the attorney general or assistant attorney general of the state.

Sec. 25. For the purpose of uniform, efficient and economic
2 maintenance and repair of the state roads constituting the state
3 road system, the Commission shall purchase all necessary equip-
4 ment and material, and shall appoint and employ all necessary
5 labor or repairmen, who shall, at all times in the year, keep the
6 state roads free from holes, ruts, sticks, loose stones or other im-
7 pediments of any kind which tend to interfere with free and easy
8 travel, or which, if permitted to exist, might tend to the deteriora-
9 tion, injury or destruction of the road or highway.

Sec. 26. For the purpose of obtaining road materials to be
2 used in the construction and maintenance of state roads and high-
3 ways to be built or maintained under the supervision of the
4 State Road Commission, the said commission is hereby authorized

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5 and empowered, on behalf of the state, to establish stone quarries,
6 stone crushing plants, brick kilns, and any other plant or plants
7 deemed by it needful or necessary in the prosecution of its work,
8 as provided by this act, and to acquire lands and appurtenances
9 thereto; the commission shall also have the power to rent, pur-
10 chase or condemn, or to acquire by any other lawful means, stone
11 quarries, gravel, clay, sand, and other deposits, with rights of way
12 thereto, and wharves, landings and switchches for shipping or re-
13 ceiving materials; to acquire storage places; to hire and purchase
14 all means of transportation for the same; to remove such materials
15 from such lands and other places; to prepare the said materials
16 for use; and to manufacture such materials into road making pro-
17 ducts; to purchase all necessary machinery, tools and other equip-
18 ment; to make such contracts and employ such labor as may be
19 needful or necessary to establish such plants; to acquire, prepare,
20 manufacture and transport such materials for use, and to do all
21 other things needful or necessary in connection with the purchase,
22 production, accumulation and distribution of such materials for
23 the uses aforesaid. The commission may sell any surplus of such
24 materials or products to any county or counties, or to any muni-
25 cipality of the state, or to any contractor, at not less than actual

26 cost, exclusively for use in the building of roads, streets and alleys,
27 and the commission shall pay to the state treasurer the funds re-
28 ceived therefor, to be credited to the state road fund; and the
29 cost of acquiring said lands and appurtenances, the cost of equip-
30 ment and labor, and of the preparation and manufacture of such
31 materials into road making products; the transportation of the
32 same for use, and all other necessary costs and expenses inci-
33 dental thereto, shall be paid out of the state road fund.

34 Whenever the commission shall deem it necessary or desirable
35 to acquire such property, rights and easements for the purposes
36 aforesaid, it shall, when possible, enter into an agreement, with
37 the owner or owners of said property, as to the amount of damage,
38 if any, to be paid to them by the state; but in case an agreement
39 satisfactory to the Commission and said owner or owners cannot
40 be made, the Commission may proceed without delay to take, use
41 and enjoy such property, rights and easements, for the purposes
42 aforesaid; and the owner or owners of said property, rights and
43 easements, damaged thereby, may present their petition to the cir-
44 cuit court of the county wherein the property taken shall lie, or
45 where such rights and easements have been so taken and exercised,
46 for the appointment of viewers to ascertain and assess such dam-
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47 ages, if any. The proceedings upon said petition and by the
48 viewers shall be governed by existing laws relating to the ascer-
49 tainment and assessment of damages for opening public roads.

50 The Commission is empowered to enter into contracts with the
51 proper authorities of other states to establish jointly plants for the
52 for the preparation and manufacture of cement, brick, stone, and
53 other materials to be used in the construction of roads as pro-
54 vided for by this act, and to operate such plants, and acquire all
55 materials and do all other things that may be deemed necessary
56 for the operation thereof and for the more economic prosecution
57 of the work of building and maintaining public roads as provided
58 for by this act.

Sec. 27. All materials of every kind used upon state roads
2 shall first be carefully analyzed, or caused to be analyzed by the
3 commission, and no such materials shall be used in the construc-
4 tion or maintenance of any such road until approved in writing
5 by said Commission. The county courts of the several counties
6 may make arrangements with said Commission for the analysis of

7 materials in the construction of county-district roads.

Sec. 28. Whenever it shall be necessary from any cause to acquire lands for the purpose of constructing, widening,

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3 straightening, grading or altering any state road which cannot be
4 acquired at a satisfactory price by purchase or grant, the said
5 Commission is hereby empowered to condemn the necessary lands
6 therefor, together with all necessary rights and easements, under
7 the right of eminent domain; and this right of condemnation
8 shall apply to gravel, sand pits, sand banks, and quarries, with
9 rights of way thereto, the same as to land. The cost of all rights
10 of way acquired for any new state or county district road, or
11 roads, or for the purpose of widening, straightening, grading, or
12 altering any such road or roads, shall be paid by the county court
13 of the county in which such road or roads shall lie.

Sec. 29. Before the Commission shall undertake the construction, reconstruction or improvement of any state road on the plan of the state road system wherein a change of existing lines and location is necessary and damage is likely to result to abutting property, it shall, when possible, enter into an agreement with the owner or owners of said property as to the amount of damage, if any, to be paid to the said owner or owners by the state; but in case an agreement satisfactory to the Commission and said owner or owners cannot be made, the Commission may proceed with the work of construction, reconstruction or improvement;
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11 and the owner or owners of said property, damaged thereby, may
12 present their petition to the circuit court of the county wherein
13 the road improved or to be improved lies; for the appointment of
14 viewers to ascertain and assess such damages, if any. The proceedings shall be conducted according to the law governing the location, re-location, and changes of other roads, and all damages, when ascertained, shall be paid by the county court of the county in which such road lies.

Sec. 30. All state roads, under the provisions of this act, shall be marked with suitable signs having the words "State Road" thereon; and signs, or distance boards, giving distances to towns or villages, shall be erected at cross or intersecting roads; the same to be paid for as part of the cost of the road. No railroad or street railroad shall hereafter be constructed upon any

7 state road, nor shall any railroad or street railway crossing, nor
8 any gas pipe, water pipe, electric conduits, or other pipe, be laid
9 upon or on it, nor shall any telephone, telegraph or electric line
10 or power pole be erected upon or in any portion of a state road,
11 except under such restrictions, conditions and regulations as may
12 be prescribed by the State Road Commission. The Commission
13 is empowered to make reasonable rules and regulations governing

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14 the use of all state roads, not inconsistent with the law, or other-
15 wise provided herein; and any person violating any of such rules
16 or regulations shall be guilty of a misdemeanor, and upon arrest
17 and conviction thereof, shall pay a fine of not less than ten dollars
18 nor more than twenty dollars for each offense.

Sec. 31. The State Road Commission shall not construct, re-
2 construct, improve or repair any section of a state road or high-
3 way within any city or incorporated town, having a population
4 of less than twenty-five hundred persons, until such city or in-
5 corporated town shall lay all necessary pipes and make all neces-
6 sary connections for sewerage, water, gas, heating, lighting and
7 any other purpose whatsoever, where the duty to lay such pipes
8 and make such connections is imposed by law upon such city or
9 town; and shall, by ordinance duly passed by the city or town
10 council, compel all public service companies and abutting prop-
11 erty owners to lay all necessary pipes and to make all necessary
12 connections for sewerage, water, gas, heating, lighting or any other
13 purposes whatsoever, along and in the line of said section of state
14 road or highway, before the work of construction, reconstruc-
15 tion or improvement of the same is started. In the event that
16 such city or town, after it shall have been served with notice in
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*17 writing by said Commission of its intention to improve such
18 street or highway, and shall have been requested to lay all neces-
19 sary pipe and make all necessary connections, as aforesaid, and
20 to compel all public service companies and abutting property own-
21 ers to lay all necessary pipe and make all necessary connections
22 for the purposes aforesaid, shall fail to comply with such request,
23 within sixty days after service of such notice, the Commission
24 may thereupon lay such pipes and make such connections, and the
25 cost and expense thereof shall be chargeable by the Commission
26 against such city or town; and upon the neglect or refusal of such

27 city or town to pay such costs and expense within sixty days
28 after the completion of the laying of such pipes and making such
29 connections, the Commission may collect the same by proper
30 action in any court having jurisdiction thereof; provided that
31 such costs and expenses shall not be chargeable against any such
32 city or town to the extent that the same would impose an in-
33 debtedness against such city or town in excess of the amount al-
34 lowed by existing law; *provided, further*, that said section of state
35 roads shall not be torn up or opened for any purpose whatsoever
36 by the city or town or any public service company or abutting
37 property owner or any other person or persons unless a permit so

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38 so to do shall first have been obtained from the Commission, and
39 unless the applicant shall first have deposited with the Commis-
40 sion a sum of money sufficient in the judgment of the Commission
41 to cover the cost of repairs thereof. Such repairs shall be made
42 at the cost of the applicant aforesaid, under the supervision of the
43 Commission or its duly authorized agent or representative, accord-
44 ing to the standards of the said commission.

State Prison Road Force.

Sec. 32. All convicts confined in the state penitentiary of this
2 state and delivered to the State Road Commission upon its requi-
3 sition, as herein provided, shall, when so delivered, constitute the
4 "State Convict Road Force."

Sec. 33. The state convict road force as now or hereafter con-
2 stituted shall, as far as practicable, except as herein otherwise pro-
3 vided, be employed in the construction and maintenance of the
4 state road system, and to this end may be used in rock quarries,
5 stone crushers, gravel pits, brick kilns and other plants in the
6 preparation and manufacture of materials for road construction
7 and maintenance.

Sec. 34: Convicts may be employed by the commission in any
2 place within the state outside of incorporated cities, towns and
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3 villages, under the regulations herein prescribed. The board of
4 control, with the advice and assistance of the warden of the peniten-
5 tiary, shall determine what prisoners therein confined may, with
6 safety and convenience, be assigned to such work, selecting pre-
7 ferably such prisoners as are believed to be most trustworthy.
8 Whenever the commission shall desire to use such prison labor for

9 the construction, maintenance, improvement or repair of any
10 state road or highway in this state, or any part thereof, or for
11 the preparation of road materials for road construction and main-
12 tenance, it shall make requisition upon the state board of control
13 to send convicts to the place or places where they are desired to
14 be worked upon such road. Such requisition shall be in form pre-
15 scribed by the board of control, and shall state the number of con-
16 victs desired, which shall not be less than ten, and the length of
17 time for which the commission desires to contract. The board of
18 control shall grant all such requisitions in so far as the number of
19 prisoners in the penitentiary available shall be sufficient to meet
20 the requirements of the commission; and if at any time the num-
21 ber of prisoners available shall not be sufficient to meet the re-
22 quirements of the commission, the board of control shall file the
23 requisitions, and supply the prisoners required as soon as they may

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24 be available. The board of control may, for good cause, refuse to
25 honor any or all such requisitions, in which event the cause of such
26 refusal shall be specified in writing to the commission.

Sec. 35. Whenever any such application shall be granted by the
2 board of control, a contract in writing, based thereon, shall be
3 entered into between the board of control and the commission,
4 which shall set forth the terms of the agreement, based on such
5 application.

Sec. 36. The state prison road force shall be guarded when
2 working on the roads of the state and in making road materials,
3 and when being transported to and from the penitentiary by
4 guards detailed by the warden of the penitentiary, who shall desig-
5 nate one guard as the superior, and the other or others as assistants,
6 and such superior may, by agreement with the commission, act as
7 and be the foreman in charge of such work. The state guard shall
8 obey the rules prescribed for the maintenance of prison camps.
9 Any guard not obeying such rules shall, on recommendation of the
10 engineer in charge of the work, be immediately recalled, and some
11 other person detailed in his stead. The guards having charge of
12 such prisoners shall not exceed one guard and an assistant for
13 thirty men, and one guard and two assistants for fifty men. The
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14 wages of each guard, superior and assistant shall be fixed by
15 agreement between the commission and the warden of the peni-

16 tentiary. The warden, his assistants or guards, at the request
17 of the State Road Commission, may, as far as practicable, make
18 trustees of the state prison road force employed under this act.
19 All guards and prisoners shall be under the direction of the State
20 Road Commission, or its engineer in charge, and shall work not to
21 exceed ten hours per day, and each prisoner shall be paid for such
22 time in excess of nine hours per day at the contract rate paid by
23 the commission for such prisoner's labor. The state board of
24 health, state board of control and the State Road Commission shall
25 promptly formulate rules and regulations governing such camps,
26 and the state board of control shall allow such good time and other
27 allowances as may be deemed wise for the government of state
28 prisoners and prison camps, in addition to that allowed by law.

Sec. 37. The warden of the penitentiary shall provide suitable
2 movable quarters, said quarters to be built so far as can be, with
3 convict labor; and shall supply all necessary cooking utensils, beds
4 and bedding, and wagons or other vehicles for transporting the
5 convicts and camp fixtures, for the camps or stations of said prison
6 road force.

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Sec. 38. All convicts forming the state prison road force shall
2 be transported to and from the penitentiary under the direction
3 of the warden thereof, and the expense of such transfer shall be
4 paid in the same way as is now provided by law for transporting
5 convicts to the penitentiary; and such prisoners may be trans-
6 ported anywhere in the state, as may be required by the commis-
7 sion.

Sec. 39. The warden of the penitentiary shall provide in the
2 same manner as he now provides for convicts in the penitentiary,
3 all clothing, food, quarters and guards for the state prison road
4 force when at work on said state roads anywhere in the state.

Sec. 40. Whenever any prisoner working on such roads shall
2 become sick, or shall be disabled by accident or otherwise, he shall
3 be attended by the physician employed by the county court to
4 take care of the poor in the county, or by the jail physician in such
5 county wherein such prisoner is being employed, and the fees of
6 such physician shall be paid by the commission in such sum as
7 may be agreed upon by the commission with such physician. In
8 any case of emergency the physician who can be most conveniently
9 reached shall attend such prisoner until the physician for the poor

10 or the jail physician can attend, and the reasonable fees of the
11 physician first called shall be paid by the commission.

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Sec. 41. When the commission desires to obtain and employ
2 convict labor on state roads under the provisions of this act, it shall
3 supply all necessary materials, tools and teams as may be necessary
4 in the prosecution of such work.

Sec. 42. The state convict road force may be employed by the
2 commission at or about any stone quarries, gravel pits, sand banks,
3 crushers and brick kilns in the acquisition and manufacture of
4 materials to be used in the construction, maintenance or repair of
5 state, or county-district roads under the same rules and regula-
6 tions as are provided herein for working said force on the state
7 roads or highways. The said commission may, in so far as it
8 may be by it deemed expedient, furnish, at cost to any of the
9 county courts or municipalities of this state, or to any contractor,
10 materials so manufactured by it, to be used by said county courts,
11 municipality or contractor, exclusively in the construction, main-
12 tenance and repair of county-district roads, streets or alleys, within
13 their respective jurisdictions.

Sec. 43. After the expiration of all contracts now existing be-
2 tween the state and any person, firm or corporation for the em-
3 ployment of convicts confined in the state penitentiary, only such
4 contracts shall be renewed, or new contracts made, under the pro-

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5 visions of law, as may be necessary to employ all convicts not other-
6 wise employed under the provisions of this act; provided, that when
7 convicts from the penitentiary are not required by the commis-
8 sion for labor in the construction and maintenance of state roads,
9 or for the preparation or manufacture of materials therefor, the
10 board of control may, with the consent of the state road commis-
11 sion, in writing, grant application to any of the county courts of
12 this state for the use of such convicts, confined in the penitentiary,
13 in the construction and maintenance of county-district roads as
14 may not be needed or required by the commission for labor on
15 state roads, and all such prisoners shall be employed by the county
16 courts as aforesaid only upon the same conditions, and under the
17 same laws, rules and regulations as are required by this act gov-
18 erning their use by the State Road Commission.

Sec. 44. If any convict escapes from the state road force, he

2 shall be punished as now prescribed by law for convicts escaped
3 from the penitentiary.

Sec. 45. The warden of the penitentiary shall have power to
2 discharge any of said prisoners working on said state convict road
3 force wherever they may be in the state, when the term of said
4 prisoner shall have expired, and section twenty-two of chapter one
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5 hundred and sixty-three of the Code of West Virginia, of 1916,
6 shall apply to all convicts working on said state road force.

Sec. 46. It shall be the duty of the governor to designate some
2 competent physician or physicians to make monthly inspection of
3 all camps where a convict road force is employed; and it shall
4 be the duty of such physician to make monthly a thorough investi-
5 gation of the sanitary conditions of such camps, and make a regu-
6 lar report of every inspection to the governor, together with such
7 recommendations as he may deem necessary, and to furnish a
8 copy thereof to the warden of the penitentiary, to the state board
9 health and the local board of health of the county in which such
10 camp may be located, and to the State Road Commission. The
11 reasonable fees of the physician rendering such services shall be
12 paid by the county court of the county where such prison labor is
13 employed at the time such inspection is made.

Labor of County Prisoners on County-District Roads.

Sec. 47. Whenever any able bodied male person over the age
2 of sixteen years shall be convicted of an offense punishable by
3 confinement in the county jail, before any court or justice of the
4 peace, and sentenced by such court or justice of the peace to im-
5 prisonment in the county jail and to pay a fine and costs, he shall

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6 be sentenced by such court or justice of the peace to labor on the
7 county-district roads of the county, under the direction of the
8 county road engineer, or other representative of the county court
9 having such work in charge, during the time of such imprisonment,
10 and until said fine and costs are satisfied; whenever any person is
11 imprisoned by virtue of section ten, chapter thirty-six of the Code
12 of West Virginia, of 1916, and fails to execute the bond therein
13 provided, he shall be required to work on said roads until said
14 fine and costs are paid under the regulations prescribed by this
15 Act; *provided* said work shall not be required to be done on the
16 streets or alleys of any city, town or village which under its

17 charter is required to keep its own streets and alleys in order,
18 unless the corporate authority thereof shall first arrange with
19 the county authorities to pay for such work to the keeper of
20 the jail of said county the amount to which he shall be entitled
21 for the board of such prisoners.

Sec. 48. The county court of each county shall provide for the
2 working of such prisoners, and for their safe keeping while per-
3 forming such work, and to this end the border lines of each county
4 shall constitute and be considered the walls of the jail of such
5 county, and the county engineer or other representative of the
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6 county court having such work in charge shall be, and he is
7 hereby empowered to adopt safe and humane methods of dis-
8 cipline and protection to enforce the provisions of this act and
9 prevent the escape of prisoners.

Sec. 49. The court or justice of the peace before whom any
2 such prisoner is convicted, for good cause appearing and entered
3 of record, may omit from the sentence that part of the penalty
4 requiring such person to work on the public roads of the county.

Sec. 50. Whenever any such person shall escape while working
2 on such public road, and be recaptured, he shall be taken by the
3 officers having him in custody before any justice of the peace in
4 the county where such escape was made, and such justice shall,
5 after a trial, and upon conviction for such escape, sentence him to
6 labor on the public roads of said county, in addition to fines and
7 sentences imposed for his previous trial, not less than sixty days,
8 nor more than six months, and to pay the cost of making the
9 arrest, including all costs of trial; and in default of payment, shall
10 sentence said prisoner to work out said costs on said public roads,
11 as herein provided.

Sec. 51. The sheriff, upon recommendation of the county
2 engineer, or other representative of the county court having the
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3 work in charge, and with the approval of the county court, shall
4 employ a sufficient number of persons to guard such prisoners, not
5 to exceed one for every ten prisoners so employed on such county
6 roads, and the wages of such guards shall be reasonable and shall
7 be fixed by the county court and shall be paid out of the county
8 treasury when allowed by the county court. Such guards when
9 employed shall be subject to and under the direction of the county

10 road engineer, or other representative of the county court having
 11 the work in charge. The keeper of the jail shall file with the
 12 clerk of the county court a monthly statement showing the num-
 13 ber of prisoners in jail waiting trial, the number of prisoners sen-
 14 tenced to work upon the public roads, the number of days work
 15 performed, the number of days idle, and the reason therefor.
 16 Whenever prisoners are worked from camps, or kept outside of
 17 the jail, the person in charge of the camp shall furnish the
 18 jailer with the information herein required, or file the same with
 19 the clerk of the county court, under the direction of the county
 20 road engineer, or another such representative of the court.

Sec. 52. The clerk of every court, or the justice of the peace
 2 before whom any person is convicted of an offense and sentenced
 3 to be confined in the county jail, or sentenced to pay a fine and
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4 is confined for non-payment thereof, shall certify to the jailer
 5 the length of sentence and the amount of fine in the manner and
 6 form following:

7 "Commitment by
 8 for imprisonment for sentence,
 9 fine and costs."

10 State of West Virginia, County of ss.

11 To the sheriff or any constable of said county, and to the jailer
 12 of said county:

13 Whereas, was this day convicted
 14 of the crime of and was sentenced to confinement
 15 in the county jail for the period of days (or months) from
 16 this date, and to pay the state a fine of \$....., and
 17 costs incurred, amounting to the sum of \$....., itemized
 18 on the back hereof, and to labor on the public roads in said county
 19 until said fine and costs are paid, as provided in chapter
 20 of the acts of the legislature of the said state for the year

21 You, the said sheriff or constable, are hereby commanded in the
 22 name of the state forthwith to safely convey the said
 23 and deliver him to the said jailer with this
 24 notice; and you,, the said jailer.

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25 are hereby commanded in the name of the said state, to receive
 26 and confine the said in said jail, and to
 27 see that the said labors according to

28 law on the county-district roads until said sentence, fine and costs
 29 have been satisfied, or until he is discharged; according to law.

30 Given under my hand and seal this day of

31, 19.....

32

33

.....
 Clerk of Court or Justice of the Peace."

Sec. 53. A person charged with misdemeanor, who is unable
 2 to furnish a recognizance or bail bond with satisfactory securities,
 3 according to law, may, after being committed to jail, elect to labor
 4 on the county-district roads of the county in which such crime is
 5 alleged to have been committed; and in such case the circuit,
 6 criminal or intermediate court of such county, or the judge thereof
 7 in vacation may, in its discretion, enter an order in the order book
 8 of such court permitting such person to labor upon the county-
 9 district roads of said county as herein provided, until such time
 10 as may be fixed by such court, or judge thereof in vacation. If
 11 at the trial, such person is convicted and sentenced to imprison-
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12 ment in the county jail, or to labor on the county-district roads
 13 of such county, he shall be credited on his term by the number
 14 of days he has labored on such county-district roads; if fined, he
 15 shall be credited on the amount of fine and costs with one dollar
 16 and fifty cents per day for each day he labored on such road, and
 17 if acquitted, he shall be paid seventy-five cents for each day he
 18 labored on said roads out of the road funds of the county or dis-
 19 trict in which such work is chargeable, when allowed by the county
 20 court.

Sec. 54. Each person sentenced to labor on county-district
 2 roads, under the provisions of this act who faithfully complies
 3 with all the rules and regulations which may be prescribed by the
 4 county road authorities governing the working of prisoners on the
 5 county-district roads, shall be entitled to a deduction from his
 6 sentence of five days for each month on each jail sentence that
 7 may be imposed upon him.

Sec. 55. For the purpose of making and maintaining con-
 2 nections between any state roads or highways, or the parts of
 3 any state road or highway constructed or improved under the
 4 provision of this act, the State Road Commission shall have
 5 the power to build bridges and acquire by purchase, condemna-

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tion or otherwise (and to maintain when so acquired) any existing bridges along in the line of or connected with any such road or highway, together with all land, roads, approaches, rights, franchises, and easements belonging to any person or corporation, and necessary or convenient for the purpose aforesaid.

Sec. 56. It shall be the duty of the commission, the county court of each county, and the incorporated towns and cities of this state to post and keep posted on or at each end of all bridges over which they have jurisdiction respectively notices clearly legible to the traveler upon the road, indicating the maximum safe load or weight that may pass over such bridge at any one time. No city, town or county court shall be liable for any damages resulting to any person or property by reason of the breaking of any bridge, sluice or culvert by transportation at any one time on the same of any vehicle or animals weighing an amount in excess of that indicated by such notices as the maximum safe load or weight; but any owner or other person engaged in transporting, directing, driving or conducting the same over such bridge shall be liable for all damages resulting therefrom.

Sec. 57. All improvements hereafter made on state routes,
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except maintenance thereof, including the construction of culverts and bridges, shall be under the direction and supervision of the State Road Commission, and all culverts and bridges thereon shall be constructed in accordance with plans prepared or approved by the Commission; *provided*, that nothing herein contained shall be construed as to prevent any county, district or corporation from providing funds to be used in the construction or improvement of such roads.

Sec. 58. Any county, district or corporation may, in the manner provided by law, vote bonds or provide funds by levy or otherwise, for the improvement and paving of any roads heretofore known as Class A roads lying within their respective political sub-divisions, not heretofore taken over by the State Road Commission in the manner provided by this act, but such funds hereafter provided shall be expended under the direction and superintendence of the State Road Commission. Any such roads or portions thereof so improved with funds provided for that purpose by any county or political sub-division thereof shall,

11 without unnecessary delay, be taken over by the State Road Com-
12 mission in the manner hereinbefore provided, as a state road,
13 and the Commission shall thereafter maintain the same; *pro-*

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14 *vided*, that where an agreement or contract exists between a
15 county court or town having a population of less than twenty-
16 five hundred persons, and any contractor, firm or corporation for
17 the construction of any road so taken over by the State Road
18 Commission as a part of the state road system, the same shall
19 be performed and completed the same as though this Act had
20 not been passed; and *provided, further*, that where, under a
21 contract or franchise existing between any street railway com-
22 pany, or other corporation or firm, and any county court or
23 town having a population of less than twenty-five hundred per-
24 sons, such street railway company or other corporation or firm
25 is required to maintain any road which has subsequently been
26 taken over by the state as a part of the state road system, the said
27 contract shall remain in force, and the State Road Commission
28 shall succeed to and take over to itself all the rights of said
29 county court or town existing under said contract or franchise,
30 the said street railway company, or other corporation or firm
31 shall be bound to carry out all of the requirements, and comply
32 with all the terms and conditions of the said contract with the
33 State Road Commission, the same as though the said contract
34 had been originally made between the State Road Commission
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35 and the said street railway company or other corporation or firm.

Sec. 59. The State Road Commission, or its agent, shall have
2 power and authority to investigate all expenditures made by the
3 several county courts of this state in road construction and main-
4 tenance, the methods adopted and the inspection and supervision
5 provided, and shall make report thereon to the county court and
6 bring the same to the attention of the prosecuting attorney or any
7 other official whose duty it is to see that the laws are properly
8 enforced, and may make such recommendation respecting the
9 same as in its opinion may be proper; and it shall be the duty
10 of any such prosecuting attorney to take such action in relation
11 to any malfeasance or misfeasance by any officer in the discharge
12 of his official duty as may be necessary to remove such person
13 from office, and to subject him to such fines and penalties as by
14 law are prescribed for any offense that may have been com-

15 mitted by any such officer.

Sec. 60. The county courts of the several counties in the
2 state shall continue in charge of the construction, improvement
3 and maintenance of all roads heretofore known as Class A roads
4 located in their respective counties, and shall maintain them as
5 county-district roads until such time as the State Road Com-

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6 mission shall, by order entered of record and by proclamation of
7 the governor, take them over, either for construction or main-
8 tenance, after which they shall be and remain under the exclu-
9 sive authority and jurisdiction of the State Road Commission.

Sec. 61. Whenever any person, firm or corporation shall make
2 or cause to be made any excavation or cut into, near or under,
3 or shall make any fill or embankment near any public road,
4 highway or street already constructed, so that damages to such
5 road, street or highway shall be sustained as the result thereof,
6 such person, firm or corporation shall be liable for any damages
7 so sustained, but where any public road, highway or street shall
8 be located, established and constructed over, above, across or
9 near any excavation or so near any cut, fill, excavation or em-
10 bankment already made that damages to such road, highway or
11 street shall afterwards be sustained as a result thereof, any firm,
12 person, or corporation making such excavation, cut, fill or em-
13 bankment shall not be liable for such damages. The State Road
14 Commission shall succeed to all the rights, powers and privi-
15 leges conferred hereunder upon any county court or incorporated
16 town for the recovery of damages under this section for injuries
17 to any road or street, when such road or street has been taken
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18 over by the Commission under this act.

Sec. 62. Whenever any state road crosses the grade of the
2 line of any railroad worked by steam, electric, or other power,
3 the State Road Commission shall have the power to contract
4 with such railroad for the construction of any bridge, archway
5 or culvert that may be needed for the purpose of any overgrade
6 or undergrade crossing, and to provide by contract or otherwise
7 for the maintenance thereof; *provided*, that at least one-half of
8 the construction cost of such bridge, archway, culvert, or road-
9 bed, shall be paid for by the railroad and the remainder by the
10 State Road Commission.

Sec. 63. Whenever any railroad, or electric or other railway hereafter constructed shall cross any public road, it shall be required to keep its own road-bed, and the bed of the said road or highway in proper repair, or else to have constructed an overhead or under-grade crossing, subject to the approval of the State Road Commission; and the tracks of such railroads or railways shall be so constructed as to give absolutely safe and easy approach to and crossing thereof; and in case of failure to do so construct, the said commission shall construct the same, and upon certification of said construction, and the cost thereof,

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after due notification to such company to construct, and its failure so to do, the cost thereof shall be chargeable against such company, and may be collected before any court having jurisdiction thereof.

Sec. 64. The State Road Commission shall cause an inspection to be made of any bridge upon any state road or highway which is reported by any of its agents, servants or employees, or by five residents of the county, to be unsafe for public use and travel. If such bridge is found to be unsafe for public use and travel, the commission shall condemn such bridge and promptly close the same, so as to exclude travel therefrom; and shall promptly reconstruct or repair the same, according to its own plans, specifications and estimates for the reconstruction or repair thereof.

Sec. 65. The State Road Commission may cause suitable shade trees to be planted on state roads or highways, and may establish and maintain watering troughs upon such roads or highways. Said Commission shall give suitable names to the state roads or highways and change the name of any road, which becomes a part of the state road system. They shall erect guide posts at convenient points along state roads or highways.

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Sec. 66. Any person who in any manner paints, puts or affixes any advertisement, sign, notice or other written or printed matter, other than notices posted in pursuance of law, on or to any stone, tree, fence, stump, pole, building or other structure which is in or upon a public road or highway, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished with a fine of not less than five, nor more than one hun-

8 dred dollars.

Sec. 67. Any person who shall ride, or drive, upon any new
2 roadbed or new repairs of any roadbed constructed or being con-
3 structed by or under the supervision of the State Road Commis-
4 sion before the same is open for traffic, and any person who
5 shall remove any light or guard set up for the purpose of clos-
6 ing said road, or any part thereof, to traffic, and any person
7 who shall otherwise maliciously injure or damage in any manner,
8 any road or highway built under the provisions of this act, either
9 in the course of its construction or thereafter, or who shall other-
10 wise maliciously injure or damage any work, material or struc-
11 ture used in connection therewith, shall be guilty of a misde-
12 meanor and on conviction thereof, shall be fined not more than
13 one hundred dollars, or be imprisoned not more than three months,
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14 or in the discretion of the court may be both fined and im-
15 prisoned, as aforesaid.

Sec. 68. No opening shall be made in any state road or
2 highway, nor shall any structure be placed thereon, or shall any
3 structure, which has been placed thereon, be changed or removed
4 except in accordance with a permit from the Commission. No
5 state road or highway shall be dug up for laying or placing
6 pipes, sewers, poles, or wires, or for other purposes, and no trees
7 shall be planted or removed or obstructions placed thereon, with-
8 out the written permit of the Commission, or its duly author-
9 ized agent, and then only in accordance with the regulations of
10 said Commission; and the work shall be done under the super-
11 vision and to the satisfaction of said Commission; and the en-
12 tire expense of replacing the highway in as good condition as
13 before shall be paid by the persons to whom the permit was
14 given, or by whom the work was done. A violation of any pro-
15 vision of this section shall be a misdemeanor, and the person
16 or corporation violating the same shall, upon conviction thereof,
17 be fined not less than twenty-five dollars, and not more than one
18 hundred dollars for each offense.

Sec. 69. Whenever in the opinion of the State Road Com-
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2 mission, it shall be necessary to clear the sides of any portion
3 of a road within the state road system of trees or underbrush,
4 it may appoint three viewers, any two of whom may act, who

5 shall view such portion of road, and determine and report to
6 the Commission what trees and underbrush shall be cut to
7 a distance on each side of said road, not to exceed twenty feet,
8 and the names of the owners of said trees and underbrush, and
9 the damage to be suffered by such owners by reason of such cut-
10 ting, and thereupon the said Commission shall allow each of
11 the viewers who so acted three dollars for each day they have
12 been engaged in viewing such roadsides, to be paid out of the
13 fund set aside to maintain such roads. The Commission shall
14 notify the owners of such trees and underbrush or the lessors
15 thereof, or the agents or representatives of any of them, to ap-
16 pear at the court house of the county in which such trees and
17 underbrush are situated, not less than ten days after the date
18 of said summonses, to show cause to the said Commission, or
19 its duly accredited representative, why the said trees and under-
20 brush should not be cut and why the sum, recommended by the
21 said viewers, should not be accepted as full compensation for all
22 damages suffered by reason of such cutting. If no owner, ten-

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23 ant or agent, or the representative of any of them, shall be found
24 in said county, then said notice shall be posted at the front door
25 of the court house of such county, or published in some news-
26 paper, having a general circulation in said county, at least three
27 times prior to the date of such hearing. If any person shall
28 feel himself aggrieved by the ruling of the Commission, or its
29 duly accredited representative, he may appeal to the circuit court
30 of said county which may order or forbid the cutting of said
31 trees and underbrush; and may increase, decrease or affirm the
32 amount of the compensation allowed by the commission, or its
33 duly accredited representative, and the decision of the said court
34 shall be final. The Commission shall thereupon order the pay-
35 ment of said compensation to the parties entitled thereto out of
36 the fund established for the maintenance of said roads, upon
37 certificate of the Commission that the persons, in whose favor
38 such warrants are proposed to be drawn, are entitled thereto;
39 and the Commission shall then cause the said trees and under-
40 brush to be cut and dispose of the same in such manner as it
41 may see fit.

Sec. 70. The State Road Commission is authorized and em-
2 powered to enter into such reciprocal contracts and agreements,

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3 as it may deem proper or expedient with the proper authorities,
4 of adjoining states, regulating the use on the roads and highways
5 of this state of trucks, automobiles, and any other vehicles owned
6 in such adjoining states, and duly licensed under the laws thereof.

Sec. 71. The State Road Commission is hereby authorized
2 and empowered, pursuant to a contract or contracts, entered into
3 by it with the proper authorities of any adjoining state, for the
4 purchase or construction of any bridge or bridges, and for the
5 maintenance thereof, across any stream or streams separating
6 this state from such adjoining state or states, to purchase or
7 erect and to maintain such bridge or bridges in conjunction with
8 the parties so contracted with, when the same shall be deemed
9 by it necessary or proper, to connect up a state highway of this
10 state with a public highway of such adjoining state; *provided*
11 that such contract or contracts shall not be entered into by the
12 commission, except upon the approval of the governor, after
13 the commission shall have filed with the governor a report in
14 writing, with necessary maps, plans and specifications of the
15 bridge or bridges desired to be purchased or constructed, show-
16 ing the estimated cost thereof, and all other facts that it may
17 deem necessary, or that may be required by the governor and

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18 provided further, that the commission shall not in any event pay
19 more than one-half the cost of such bridge, whether already
20 constructed or to be constructed, nor more than one half the
21 cost of the maintenance thereof.

Sec. 72. A copy of any map, plat, document, or writing of
2 any character, required to be filed or recorded, by any of the
3 provisions of this act, in the office of the State Road Commis-
4 sion, when duly attested by any member thereof, may be ad-
5 mitted as evidence, in lieu of the original, in any of the courts
6 of this state.

Sec. 73. The State Road Commission may, at either public
2 or private sale, as may seem to it most advantageous for the
3 public good, dispose of any equipment purchased by it for use
4 in and about the construction, maintenance and repair of pub-
5 lic roads and highways under the provisions of this act.

Sec. 74. The members of the State Road Commission and
2 such of its employees and servants as are designated by it, shall

3 have authority to enforce all laws of this state relating to state
4 highways and to arrest all violators of any of the provisions of
5 law in reference to state roads or highways or violators of the
6 regulations and orders of the State Road Commission in relation
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7 thereto. Every such employee or servant shall, in exercising
8 any such authority hereunder, wear and display a metallis shield
9 or badge indicating that he is an employee or servant of the
10 said commission; *provided*, however, that no contractor, his em-
11 ployee or servant, shall be permitted under this section to make
12 any arrests. Any creditable person may make complaint before
13 any justice of the peace, having jurisdiction thereof, of any
14 criminal offense under this act, and the same proceedings shall
15 be had before such justice as are now provided for in other
16 criminal cases before justices.

Sec. 75. There shall be, and there is hereby created a state
2 road fund. The said fund shall consist of the proceeds of all
3 state license taxes imposed upon, and collected from automobiles
4 or other motor or steam driven vehicles; the registration fees
5 imposed upon all chauffeurs, operators and dealers in automobiles
6 or other motor driven vehicles; all sums of money which may
7 be donated to such fund; all proceeds derived from the sale of
8 state bonds issued pursuant to any resolution or act of the legis-
9 lature carrying into effect the "Road Amendment" to the con-
10 stitution of this state, adopted in November, 1920; all
11 moneys and funds appropriated to it by the legislature;

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12 all moneys and funds allotted or appropriated by the
13 federal government to this state for road construction
14 and maintenance pursuant to any act of the congress of the
15 United States; the proceeds of all taxes imposed upon, or col-
16 lected from any person, firm or corporation for the benefit of
17 such fund; all taxes or charges imposed upon, or collected from
18 any county, district or municipality for the benefit of such fund;
19 the proceeds of all judgments, decrees or awards recovered and
20 collected from any person, firm or corporation for damages done
21 to, or sustained by any of the state roads or parts thereof; all
22 moneys recovered or received by reason of the violation of any
23 contract respecting the building, construction or maintenance of
24 any state road; and all penalties and forfeitures imposed, re-

25 covered or received by reason thereof, and any and all other
26 moneys and funds appropriated to, imposed and collected for
27 the benefit of such fund, or collected by virtue of any statutes
28 and payable to said fund.

29 When any money is collected from any of the sources afore-
30 said, it shall be paid into the state treasury by the officer whose
31 duty it is to collect and account for the same, and credited to
32 the state road fund, and shall be used only for the purposes
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33 named in this act, that is to say (1) to pay the principal and
34 interest due on all state bonds issued for the benefit of said fund,
35 and set aside and appropriated for that purpose; (2) to pay the
36 expenses of the administration of said road commission; (3) to
37 pay the expenses and costs of maintenance of all state roads;
38 and (4) to pay the expenses and costs of all construction, re-
39 construction and improvement of state roads; *provided*, that
40 none of the funds derived from the sale of state bonds for road
41 purposes shall be used or expended, except for construction and
42 re-construction of state roads.

Sec. 76. The cost and expense of the construction, improve-
2 ment and maintenance of all state roads shall be paid out of
3 any moneys appropriated to the State Road Commission for that
4 purpose.

Sec. 77. The State Road Commission, created by this Act, shall
2 succeed to the office of the State Road Commission created by
3 chapter sixty-six of the acts of the legislature of West Virginia of
4 1917, and all supplies, moneys, papers, books, maps, files, records,
5 documents, and other property and equipment now belonging to,
6 or in the custody of the said State Road Commission shall, upon
7 the organization of the State Road Commission under this act,

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8 be immediately turned over to the Commission hereby created.
9 Any powers, duties and obligations imposed upon the State Road
10 Commission, heretofore created, or upon any of its officers, by
11 virtue of any contract, heretofore entered into by it, with con-
12 tractors or other persons shall be carried out and exercised by
13 the Commission, hereby created, or by its regularly constituted
14 agents or employees.

Definitions—Automobile Registration.

Sec. 78. The State Road Commission shall have charge of the

2 administration of the vehicle laws of this state, and for that
3 purpose shall have power to employ such assistants, deputies and
4 employees as may be required to carry out the provisions of this
5 act, and to fix their salaries. The Commission shall also have
6 power to dismiss or discharge such assistants, deputies and em-
7 ployees at its discretion.

8 *Definition.*

9 Wherever in this act, or in any regulations authorized by this
10 act, the following terms are used, they shall be deemed and taken
11 to have the meanings herein ascribed to them:

12 *Vehicle.*

13 (a) Any mechanical device suitable for use on highways,
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14 except those propelled or drawn by muscular power, or those used
15 exclusively upon stationary tracks.

16 *Motor Vehicle.*

17 (b) Any self propelled vehicle not operated exclusively upon
18 stationary tracks, except tractors as defined hereinafter.

19 *Tractor.*

20 (c) Any self propelled vehicle designed or used as a traveling
21 power plant or for drawing other vehicles, but having no pro-
22 visions for carrying loads independently.

23 *Trailer.*

24 (d) Any vehicle without motive power designed for carrying
25 property or passengers, wholly on its own structure, and for being
26 drawn by a self-propelled vehicle, except those running exclusively
27 on stationary tracks.

28 *Semi-Trailer.*

29 (e) A vehicle of the trailer type so designed and used in con-
30 junction with self-propelled vehicle that a considerable part of
31 its own weight or that of its load rests upon and is carried by the
32 towing vehicle.

33 *Pneumatic Tires.*

34 (f) Tires of rubber or other material inflated with air, and
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35 depending upon confined air for the support of the load.

36 *Solid Tires.*

37 (g) Tires of rubber or similar elastic material that do not
38 depend upon confined air for the support of the load.

39 *Solid Tired Vehicle.*

40 (h) Any vehicle equipped with two or more solid tires.

41 *Manufacturer-Dealer.*

42 (i) Any person, firm or corporation engaged in the manufac-
43 ture, sale, purchase or leasing of vehicles, and who maintains for
44 that purpose a recognized place of business in this state.

45 *Owner.*

46 (j) Any person, firm, corporation or association holding title
47 to a vehicle.

48 *Operator.*

49 (k) Any person who drives or operates a motor vehicle or
50 tractor, except for hire.

51 *Chauffeur.*

52 (l) Any person who operates for hire, or is hired to operate,
53 any motor vehicle, or tractor, upon the public highways.

54 *State.*

55 (m) The State of West Virginia, or other constitutional unit
56 or a territorial or federal district of the United States.

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57 *Political Sub-Division.*

58 (n) Any county, city, town, or other similar governmental unit
59 of the state.

60 *Local Authorities.*

61 (o) Representatives of political sub-divisions of the state, duly
62 elected or appointed to administer the laws and ordinances of the
63 state.

64 *Road Highway.*

65 (p) Any public thoroughfare for vehicles, including streets
66 alleys, bridges, etc., included within the right of way limits.

Sec. 79. The Commission shall prepare on or before the first
2 day of March of each year, a list of all vehicles registered up to,
3 and including January thirty-first for that year, and subsequently,
4 beginning with February, shall issue in pamphlet form a list of
5 motor vehicles registered in each month during the license year,
6 together with a list of all licenses transferred, lost, stolen or can-
7 celled. The said monthly supplement shall be issued as soon after
8 the last day of the month as practicable.

9 Officers of the state entrusted with the enforcement of the laws
10 shall be furnished with a complete list of vehicles registered, and
11 of licenses issued, and such list shall also be furnished to such

12 other interested parties as may be authorized by the Governor or
13 by the Commission. In addition to the officers of this state, the
14 Commission may furnish lists of registration to similar officers
15 in adjoining states. Copies of lists of registration shall also be
16 furnished to all other persons applying for same, at a price not
17 to exceed five dollars per year, or one dollar for the first list, or
18 fifty cents for each monthly supplement thereto.

19 The Commission shall prepare in pamphlet form a brief synop-
20 sis of the law, or laws, of this state, relating to the use of vehicles
21 upon public roads, together with the table of fees charged, and
22 such other information as may be of interest to the owners, or
23 operators, of any vehicle upon the public roads. The pamphlet
24 shall be issued free of cost and one copy of the same shall be
25 furnished to persons granted a license under this act, and to any
26 other citizen of the state upon application.

27 The Commission shall keep a record of all applications, and state-
28 ments, in connection therewith filed with it, and of all license
29 certificates, etc., issued by it, under the provisions of this act,
30 which information shall be open and available to the public for in-
31 spection.

32 No vehicle, not expressly exempted herein, shall be operated
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33 upon any roads or highways in this state, unless the same shall be
34 registered as provided in this act.

Sec. 80. The state, or any political sub-division thereof, shall
2 be exempted from the payment of any fee on account of registra-
3 tion of any vehicle, owned, operated by the state or any political
4 sub-division thereof as the case may be, *provided* that the proper
5 representative of the state, or of any such political sub-division
6 shall make, or cause to be made, on the form provided for that
7 purpose, an application for registration of such vehicle so owned
8 or operated; and, *provided further*, that the registration plate, or
9 plates, issued for such vehicles, shall be displayed or caused to be
10 displayed, as provided in this act. *Provided further*, that fire
11 apparatus owned by the state, or any political sub-division of the
12 state, shall be exempted from all the provisions of this act.

Sec. 81. Every owner of one or more vehicles, not expressly
2 exempted by this act, shall make a separate application for each
3 vehicle on a form provided by the commission, for permission to
4 operate the same on the public roads of this state. Said applica-

5 tion shall be accompanied with a certificate of ownership, on a
6 form provided by the Commission, of the vehicle for which registra-
7 tion is requested, which certificate of ownership shall show the

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8 name of the individual, firm or corporation from whom the said
9 vehicle was purchased. In such application for registration the
10 applicant shall show such other information as the Commission
11 may require. Upon receipt of the application for registration
12 together with the fees hereinafter provided for, the Commission
13 shall file said application and give to the same a distinguishing
14 mark and number, and shall issue to the owner of the vehicle a cer-
15 tificate of registration, which shall contain the number or mark
16 assigned said vehicle, the name and place of residence of the own-
17 er, and his postoffice address, if the same shall be different from his
18 place of residence. Such certificate shall be of convenient size
19 and form, and shall at all times be carried upon said vehicle, and
20 shall be subject to examination upon demand by any proper officer,
21 as herein provided. In addition to the certificate of registration
22 the Commission shall, without additional charge, deliver to the
23 owner metal plates bearing the abbreviation of the name of this
24 state, the year for which issued, and the distinguishing mark or
25 number assigned to such vehicle. Such plate, or plates, shall be
26 known as the registration plates. Each year there shall be chosen
27 a color, or combination of colors, for such registration plates,
28 which shall be as different as practicable from the color, or colors,
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29 used on the plates of the preceding year, and the numerals and
30 letters, on said plates shall be of such color as to be shown in
31 marked contrast with the remainder of the plate. The plates
32 shall be of such size as to properly accommodate the numerals, and
33 other marks. The distinguishing number shall be composed of
34 numerals of not less than four inches in height, and of such
35 stroke as to make them easily read, except that in case of plates
36 for motorcycles, and similar small vehicles, the numerals and other
37 marks shall be not less than one inch in height, and the stroke
38 thereof not less than one-eighth of an inch in width.

39 Any person, firm, or corporation, failing to carry the certificate
40 of registration provided by this act, or who obtains a certificate of
41 registration, or registration plates, by misrepresentation, or
42 changes the name, number or other identification information on

43 the certificate of registration, or registration plates, shall be
44 deemed guilty of a misdemeanor, and shall, upon conviction, be
45 fined not less than ten dollars, nor more than one hundred dollars;
46 *provided*, that in the case of a person to whom a certificate has
47 been issued, but who at the time of arrest has not the same with
48 him, the minimum fine shall be one dollar, instead of ten dol-
49 lars, as hereinbefore prescribed.

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50 The provisions of this act shall apply both to the operator, or
51 chauffeur, and to the owner who causes or permits his vehicle to
52 be operated without a certificate of registration as herein pro-
53 vided.

Sec. 82. The following fees shall be paid to the Commission
2 for the certificate of registration and corresponding registra-
3 tion plates issued by it in accordance with the provisions of
4 this act.

5 For the purpose of determining the horse power of any in-
6 ternal combustion engine used to propel a motor vehicle coming
7 within the provisions of this Act, the following formula shall
8-9 be used:

10 Multiply the square of the diameter of the cylinders in inches
11 by the number of cylinders, and divide the product by $2\frac{1}{2}$.

12 The horse power of an electric or steam motor shall be taken
13 as the manufacturer's rated horsepower for the individual mo-
14 tor.

15 *Class A*—The registration fee for all motor vehicles, other
16 than passenger vehicles operated for hire, equipped only with
17 pneumatic tires, shall be thirty cents per horsepower of motor,
18 and in addition thereto thirty cents per hundred pounds of
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19 weight of the vehicle and load. For the purpose of determining
20 the weight of vehicle and load, in the case of vehicles used ex-
21 clusively for the conveyance of passengers, except for hire, the
22 actual weight of the vehicle shall be taken, and in addition there-
23 to the adult seating capacity multiplied by one hundred and
24 fifty pounds, and in case of vehicles used for the transporta-
25 tion of merchandise, supplies, or other material, the weight of
26 the chassis and the bed or body, shall constitute the weight of
27 the vehicle, while the weight of the load shall be the manu-
28 facturer's rated capacity for the vehicle.

29 *Class B*—The registration fee for motor vehicles equipped
30 with solid rubber tires and used for the transportation of mer-
31 chandise, supplies and for any other purpose than the carrying
32 of passengers, shall be twenty-five dollars yearly for a motor
33 vehicle of one ton capacity; fifty dollars yearly for a vehicle of
34 two ton capacity; one hundred dollars yearly for a vehicle of
35 three ton capacity; two hundred dollars yearly for a vehicle
36 of four ton capacity; and four hundred dollars yearly for a
37 vehicle of five ton capacity; *provided* that the manufacturer's
38 rated capacity for the chassis shall be used in determining the
39 capacity of any vehicle licensed under this class. Whenever

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40 the rated capacity is a fraction of a ton in excess of any of
41 any of the above ratings, the vehicles shall take the next higher
42 rating.

43 *Class C*—The registration fee for vehicles trailed or pro-
44 pelled by any motor vehicle or tractor required to be regis-
45 tered, shall be ten dollars for a vehicle of one ton capacity,
46 equipped with tires of solid rubber or steel, and fifteen dollars
47 for each additional ton capacity, *provided* that the fee in the
48 case of a vehicle equipped with only pneumatic tires shall be
49 one-half that shown for solid rubber tires.

50 *Class D*—Passenger vehicles operated for hire shall pay
51 sixty cents per horsepower and sixty cents per hundred pounds
52 weight of vehicle and load, provided that the weight of the
53 vehicle shall include the chassis and body or bed, and the
54 weight of the load shall be the adult seating capacity multi-
55 plied by one hundred and fifty pounds.

56 *Class E*—The registration fee for each motorcycle shall be
57 five dollars yearly, and for each side car attached to a motorcycle,
58 an additional three dollars yearly.

59 *Class F*—The registration fees for all tractors, traction en-
60 gines, and similar vehicles used to propel, support, transport, or
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61 draw a trailer, or trailers, or semi-trailer, or semi-trailers, upon
62 the roads of this state, except as herein provided, shall be as fol-
63 lows: For such vehicles having a weight of two tons or less,
64 twenty-four dollars; for such vehicles having a weight of three
65 tons, thirty-seven dollars and fifty cents; for such vehicles hav-
66 ing a weight of four tons, fifty dollars; for such vehicles having

67 a weight of five tons, seventy-four dollars; for such vehicles hav-
68 ing a weight of six tons, one hundred dollars; for such vehicles
69 having a weight or seven tons, one hundred and fifty dollars; for
70 such vehicles having a weight of eight tons, two hundred dollars;
71 for such vehicles having a weight of nine tons, three hundred dol-
72 lars; for such vehicles having a weight of ten tons, four hundred
73 dollars. Whenever the weight of such vehicle is a fraction of a
74 ton in excess of any of the above weights, the vehicle shall take
75 the next higher weight. This charge shall not be made in the
76 case of tractors used exclusively for agricultural purposes, *pro-*
77 *vided* that such rims or other sufficient devices are used on the
78 wheels of such tractors as will protect the roads or highways
79 traveled by them from any unusual damages thereto; and *pro-*
80 *vided further*, that the continuous distance traveled by such tract-
81 ors upon any public highway or street at any one time shall not

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82 exceed one mile; nor shall registration be required for tractors
83 so used. This charge shall not be made for steam rollers used in
84 road construction or maintenance.

85 *Class G*—Each dealer in motor vehicles, except motorcy-
86 cles, shall pay a fee of thirty dollars yearly, in consideration of
87 which fee he shall receive two sets of special registration plates
88 to be used only on vehicles operated upon the highways for dem-
89 onstration purposes, leading to sale or exchange. Dealers' plates
90 once legally placed upon a vehicle shall remain upon the said ve-
91 hicle until the same shall have been sold, exchanged, or otherwise
92 disposed of, whereupon, the plates shall be removed and may be
93 used by such dealer upon any other vehicle, upon the same terms,
94 during the current year for which issued; *provided*, that in the
95 case of sale or exchange of a vehicle, the dealer may give per-
96 mission in writing, to the new owner of the vehicle to use said
97 dealers' license plates for a period not to exceed ten days; and
98 *provided further*, that the dealer or new owner shall at the time
99 of such sale or exchange make application in the name of the
100 new owner for a proper license for said vehicle. Upon the re-
101 ceipt of said license and registration plates in the name of the
102 owner of the vehicle, said owner shall thereupon remove the deal-
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103 er's registration plates and return the same immediately to the
104 dealer, and in all cases must such dealer's plates be removed by

105 the owner within ten days from date of purchase. Additional
106 sets of plates shall be issued to any dealer licensed in accordance
107 with this act, upon application and payment of a fee of fifteen
108 dollars for each additional set.

109 The Commission shall have power to grant, in its discretion,
110 special permits to a dealer for use on motor vehicles driven under
111 their own power from the factory or distributing place of a man-
112 ufacturer, or other dealer, to the place of business of such dealer,
113 and the Commission shall charge a fee of one dollar for each such
114 permit. Such special permit shall be good only for one trip and
115 for the specific vehicle upon which used, and such permit shall
116 not be used by such dealer in lieu of any registration certificate,
117 or plates, required by this act. No dealer shall use the dealer's
118 plates upon any vehicle used for transportation of freight, or for
119 passenger service, pleasure or hire.

120 *Class H*—Each dealer in motorcycles shall pay a fee of ten
121 dollars yearly, in consideration of which he shall receive two sets
122 of registration plates for dealers, and for each additional set of
123 plates such dealer shall pay five dollars. The conditions for

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124 use of motor vehicles set forth under Class G shall apply also to
125 motorcycles and dealers in the same.

Sec. 83. The charges or fees herein prescribed shall be for the
2 entire calendar year; *provided*, that if a certificate of registration
3 be issued after the thirty-first day of August of any calendar year,
4 the charge therefor shall be one-half the fee for the entire year.

5 The Commission shall have authority in disputed cases to de-
6 termine the classification in which any vehicle belongs, under any
7 provision of this act; *provided*, that the owner shall have the right
8 to appeal from the decision of the Commission to any court of
9 competent jurisdiction; *provided further*, that such appeal shall
10 not act as a stay of execution of such ruling of the Commission.

11 In the event of the loss or inadvertent destruction of any plate
12 issued under the provisions of this act, the Commission shall in-
13 vestigate the circumstances of alleged loss or destruction, and if
14 satisfied that the loss or destruction has occurred as alleged, shall
15 issue a duplicate, or duplicates, or may in its discretion issue a
16 new set of plates with appropriate certificate of registration, at a
17 cost not to exceed five dollars in the case of all vehicles except
18 motorcycles, and similar small vehicles, and not to exceed two

19 dollars for such small vehicles.

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20 In the event that the commission is unable to issue immediately
21 a certificate and corresponding registration plates to an appli-
22 cant entitled to the same, the Commission shall have authority to
23 issue temporary certificate and plates, or markers.

24 The provision of this act, relating to the licensing of vehicles,
25 operators, chauffeurs, dealers, etc., shall go into effect at midnight
26 December thirty-first, one thousand nine hundred and twenty-
27 one; *provided*, that the Commission shall have authority to issue
28 such licenses for the year one thousand nine hundred and twenty-
29 two, after October thirty-first, one thousand nine hundred and
30 twenty-one.

31 The registration certificates, and the right to use the corre-
32 sponding registration plates shall expire at midnight of Decem-
33 ber thirty-first of the year for which issued. *Provided further*,
34 however, that the Commission may extend the time of expiration
35 not to exceed thirty days.

36 Upon transfer of ownership, theft, destruction, or permanent
37 removal of any vehicle required to be registered in accordance
38 with the provisions of this act, the right of the owner of such
39 vehicle to use the registration certificate and registration plates
40 assigned to such vehicle, shall expire, and the same shall be re-

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41 turned to the Commission, and not again used. *Provided*, that in
42 case of sale or transfer to another person, the owner shall give, in
43 writing, to the purchaser the right to use said certificate of regis-
44 tration plates for a period not to exceed ten days from date of
45 sale or transfer. At the expiration of this time, or sooner, the pur-
46 chaser shall return the certificate of registration and the registra-
47 tion plates to the Commission. Upon such sale or transfer of a
48 vehicle, the purchaser shall immediately make application for a
49 new certificate of registration and registration plates, and shall
50 pay for the same a fee of five dollars, upon the return of the
51 certificates of registration and registration plates belonging to the
52 vehicle at the time of sale, or transfer, the person, or persons, to
53 whom the vehicle has been transferred, and who has made appli-
54 cation for a new certificate of registration and registration plates
55 shall be entitled to a refund from the Commission of four dol-
lars. The permission in writing referred to herein, shall at all

56 times while in force, be kept with the registration certificate, and
57 shall be displayed upon demand the same as the registration
58 certificate, as provided elsewhere in this act.

59 Any person who shall obtain a registration certificate or regis-
60 tration plates, or other license provided for in this act, by mis-
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61 representation or any other method not authorized by law, shall
62 be guilty of a misdemeanor and shall be punished by a fine of not
63 less than ten dollars, nor more than fifty dollars, and may be
64 thereafter refused a license or certificate of registration. Said
65 penalty shall apply to the owner as well as to the operator of such
66 vehicle.

Registration and Licensing of Operators and Chauffeurs.

Sec. 84. No person shall operate a motor vehicle, or tractor,
2 upon any road in this state until he or she first shall have ap-
3 plied for and obtained a license for the purpose; *provided*, that any
4 person over sixteen years of age receiving instruction in the use
5 of a motor vehicle may operate such vehicle when accompanied
6 by a licensed operator or chauffeur. Such license in the case of
7 operators shall be good until revoked, and in the case of chauf-
8 feurs, shall be good for the calendar year, unless sooner revoked.
9 Applications for licenses shall be made upon blanks provided
10 by the Commission, and said application blanks shall be in such
11 manner and form not inconsistent with this act, as said Com-
12 mission may determine.

13 Said license shall state the name, age, postoffice address of the
14 licensee, and the number assigned to him, and shall entitle the
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15 licensee to operate any vehicle of any make unless otherwise speci-
16 fied thereon. Said licensee shall have endorsed thereon in the
17 proper handwriting of the licensee the name of said licensee, and
18 when requested by a proper officer in the discharge of his duties
19 under the law, said licensee shall write his name in the presence
20 of said officer, to the end that the identity of said licensee may
21 be determined. A number shall be assigned to each of said
22 licenses, and a proper record of all applications and licenses, and
23 all licenses issued, shall be kept by the Commission, and shall
24 be open to public inspection.

5 The Commission may require an actual demonstration or other
26 evidence of the qualifications of such applicant to operate such

27 motor vehicle or tractor, and may refuse to issue a license, if, in
28 the Commission's judgment the safety of the public would be
29 jeopardized thereby. The commission may also after due hear-
30 ing, upon not less than five day's notice in writing, sent by regis-
31 tered mail to the address given by the operator or chauffeur
32 when applying for his license certificate, which shall constitute
33 a sufficient form of notice, suspend or revoke the operator's or
34 chauffeur's license issued to any person under this act for any
35 cause which the Commission may deem sufficient. The Com-
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36 mission may take into consideration in refusing, suspending, or
37 revoking licenses, the penalties (except minor speed violations)
38 imposed by duly authorized officials in other states, where such
39 records are kept and reported, if the Commission deem the acts
40 causing such penalties to be imposed to be of sufficient import-
41 ance to justify such refusal, suspension or revocation.

42 Every applicant for an operator's or chauffeur's license whose
43 application shall have been refused, and every licensee whose
44 license shall have been suspended or revoked by the Commis-
45 sion, may appeal from such refusal, suspension or revocation
46 to the circuit court of the county in which the licensee may live;
47 *provided*, that such appeal shall not operate as a stay to such
48 order or decision by the Commission. The decision of said court
49 shall be final.

50 No person shall, for a period of three months from the date
51 of the revocation of his license as operator or chauffeur, be eligible
52 to receive a new license, nor thereafter, except at the discretion
53 of the Commission.

54 Any person whose license shall have been refused, suspended,
55 or revoked as aforesaid, and who shall operate a vehicle, or any
56 person who shall operate a vehicle the registration of which

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57 has been refused, suspended or revoked as aforesaid, shall be
58 deemed guilty of a misdemeanor and punished by a fine of not
59 less than one hundred dollars, nor more than one thousand dol-
60 lars, or to imprisonment for not less than thirty days, nor more
61 than one year, or both fine and imprisonment, such penalty to
62 apply to both owner and operator.

63 The fee for such operator's license issued under the provi-
64 sions of this act shall be one dollar. The fee for each chauffeur's

65 license issued under the provisions of this act shall be three
66 dollars, if the same is issued between January first and July
67 first, and shall be one dollar and fifty cents if issued between
68 July first and December thirty-first.

69 It shall be unlawful to obtain an operator's or chauffeur's license
70 by misrepresentation, or to allow an operator's or chauffeur's
71 license to be used by any person other than the one to whom
72 it was issued, or to change the name of a licensee appearing upon
73 any such license issued by the Commission. Any person violating
74 any provision of this section shall be deemed guilty of a mis-
75 demeanor and shall be punished by a fine of not less than ten
76 dollars, nor more than one hundred dollars.

Sec. 85. The owner or operators of any vehicle not owned
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2 in this state, or any operator not a resident of this state, may,
3 for a period not to exceed three months in any one year, use
4 the roads of this state without being registered or licensed as re-
5 quired in this act; *provided*, that such vehicle or operator shall
6 have been licensed under the laws of the state in which such
7 vehicle is owned or such operator resided; *provided, also*, that such
8 vehicle shall display its registration plates prominently and that
9 such operator shall on demand of the proper authorities present
10 his operator's or chauffeur's license; and, *provided further*, that
11 the state or federal district in which such vehicle is owned, or
12 such operator, or chauffeur, resides, shall extend the same privi-
13 leges to vehicles owned in this state, and to operators, or chauff-
14 feurs, residing in this state.

15 The Commission is hereby authorized and empowered to con-
16 fer and advise with the proper officers and legislative bodies of
17 this and other states and federal districts of the United States
18 with a view to entering into reciprocal agreements under which
19 the registraation of vehicles owned in this state, and the licenses
20 of operators and chauffeurs residing in this state will be recog-
21 nized by such other states and federal districts.

Sec. 86. Unless otherwise provided for herein, every duly

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2 registered vehicle shall at all times have displayed entirely un-
3 obscured and kept reasonably clean, and so fastened as not to
4 swing, the registration plate, or plates, issued by the commis-
5 sion. In the case of motor vehicles and tractors one plate shall

6 be displayed on the front and the other on the rear of said ve-
7 hicle, and in the case of trailers, semi-trailers, and motorcycles,
8 one plate shall be used and displayed at the rear thereof.

9 All vehicles used for commercial purposes shall have marked
10 on the right side thereof in some conspicuous place the actual
11 weight of the vehicle with equipment, and the weight of the
12 seating or loading capacity of such vehicle.

13 Every motor vehicle and tractor shall be equipped with two
14 sets of brakes operating independently.

15 Every motor vehicle and tractor when in use on the roads shall
16 be equipped with a suitable horn or signaling device for produc-
17 ing an abrupt sound as a signal or warning of danger. The
18 Commission shall have the power to make and enforce suitable
19 regulations governing the kind and use of such horns or signal-
20 ing devices.

22 be equipped with a lamp, or lamps, as hereinafter provided, of

21 Every vehicle operated on any road in this state at night shall
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23 sufficient power, and so adjusted and operated as to enable the
24 operator of such vehicle to proceed with safety to himself and
25 to other users of the road under all ordinary conditions of road
26 and weather.

27 Every motor vehicle and tractor shall have mounted on the
28 right and on the left sides of the front thereof a lamp, said lamps
29 to be of approximately equal candle power, and every motorcycle
30 shall have mounted on the front thereof one lamp. If said ve-
31 hicles are so mechanically constructed, governed, or controlled that
32 they cannot exceed a speed of fifteen miles per hour, they shall
33 have front lamps capable of furnishing light of sufficient candle
34 power to render any substantial object clearly discernible on a
35 level road at least fifty feet direct ahead, and at the same time
36 at least seven feet to the right of the axis of such vehicle for a
37 distance of at least twenty-five feet. If such vehicles can exceed
38 a speed of fifteen miles per hour, then they shall have front
39 lamps capable of furnishing light of sufficient candle power to
40 render any substantial object clearly discernible on a level road
41 at least two hundred feet directly ahead, and at the same time
42 at least seven feet to the right of the axis of such vehicle for a
43 distance of at least one hundred feet; *provided*, that no front lamp

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44 capable of furnishing more than four candle power light shall
45 be used if equipped with a reflector, unless so designed, equipped
46 or mounted that no portion of the beam of light when projected
47 seventy-five feet or more ahead of the lamp shall rise above a plane
48 forty-two inches higher than and parallel with the level surface
49 upon which the vehicle stands; and *provided, further*, that no
50 electric bulb or other lighting device of a greater capacity than
51 thirty-two candle power shall be used, no matter how the same
52 may be shaded, covered or obscured.

53 Every trailer and semi-trailer, except small two wheel trailers
54 of one thousand pounds capacity or less, towed closely behind a
55 motor vehicle, and semi-trailers when towed alone, whose over-
56 all length, in both cases, including towing vehicle and load, does
57 not exceed thirty feet on the roads of this state at night, shall
58 carry at the front of its left side one lamp capable of throwing a
59 white light visible from both sides of such vehicle.

60 Every motor vehicle, tractor, trailer or semi-trailer, when on
61 the roads of this state at night, shall have on the rear thereof,
62 and to the left of the axis thereof, one lamp capable of dis-
63 playing a red light visible for a distance of at least one hundred
64 feet behind such vehicle; *provided*, that when a vehicle is used
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65 in conjunction with another vehicle or vehicles, only the last of
66 such vehicles shall be required to carry such a lamp. Every motor
67 vehicle, tractor, trailer and semi-trailer, when on any road in
68 this state at night, shall carry a lamp illuminating with white
69 light the registration plate of such vehicle, so that the characters
70 thereon shall be visible for a distance of at least fifty feet.

71 Every horse drawn vehicle, when at night on any road in this
72 state, shall display a light visible from every direction for at least
73 two hundred feet.

74 Trailers having more than two wheels, when operated on
75 any road in this state, shall be connected to the towing vehicle,
76 or preceding trailer by at least one chain, in addition to the hitch
77 bar, of sufficient strength to hold the trailer on a hill if the
78 hitch bar becomes disconnected, or shall be provided with some
79 other adequate device to prevent rolling backward down hill.

80 Any person violating the provisions of this section shall be
81 deemed guilty of a misdemeanor and punished by a fine of not
82 less than ten dollars, nor more than one hundred dollars.

Sec. 87. No person shall operate or permit to be operated on any road or highway in this state a vehicle unless he shall display or cause to be displayed thereon the registration plate or plates of

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such vehicle, as in this act provided. No person shall operate or permit to be operated a vehicle registered in this state upon which there is displayed the registration plate of another state, or a fictitious registration plate, or the plate of another vehicle, or the plate of a previous owner of the same vehicle; *provided, however,* that in the event of the sale of a vehicle the person purchasing the same may for a period of not more than ten days operate such vehicle under the registration of its previous owner and display the registration plate thereof; *provided,* that he shall have and display on the demand of any proper officer the consent in writing of such previous owner so as to use such registration. Any person violating any provision of this section shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars, nor more than fifty dollars.

Restrictions As to Operators.

Sec. 88. No person, whether resident or non-resident of this state, under sixteen years of age shall operate a motor vehicle, tractor or motorcycle upon any road or highway in this state. Violation of this provision shall be a misdemeanor and shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or to imprisonment for not less than

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thirty days nor more than one year, or both, such fine and imprisonment to apply to both owner, if present, and operator.

No person shall drive or operate any vehicle, motor driven or otherwise, upon any public road or street in this state, when intoxicated or under the influence of liquor, drugs or narcotics; and any one violating this provision shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five nor more than one hundred dollars, and shall be confined in the county jail not less than sixty days nor more than six months for the first offense; and for a second offense, he shall be deemed guilty of a felony, and upon conviction thereof shall be confined in the penitentiary not less than one nor more than three years.

No person shall operate any vehicle upon any road or highway

21 in this state without the knowledge and consent of the owner of
 22 such vehicle. If any person shall so operate any vehicle without
 23 the knowledge and consent of the owner of the same, it shall be
 24 *prima facie* evidence that he has stolen said vehicle.

Sec. 89. No vehicle shall be operated on any road or highway
 2 of this state whose width, including load, is greater than ninety
 3 inches (except traction engines, whose width shall not exceed one

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4 hundred and eight inches), a greater height than twelve feet, or a
 5 greater length than thirty feet, and no combinations of vehicles
 6 coupled together shall be so operated whose total length, including
 7 load, shall be greater than sixty feet; *provided*, that in special
 8 cases vehicles whose dimensions exceed the foregoing may be
 9 operated under permits granted as hereinafter provided.

10 No vehicle of four wheels or less, whose gross weight, including
 11 load, is more than twenty-two thousand pounds; no vehicle in-
 12 cluding load, having a greater weight than seventeen thousand
 13 pounds on any one axle; no vehicle, including load, having a
 14 greater weight than nine thousand pounds on any one wheel;
 15 and no vehicle, including load, having a weight upon any one
 16 wheel of more than six hundred pounds per inch width of tire in
 17 actual contact with the road surface, shall be operated upon any
 18 road or highway in this state; *provided however*, that in special
 19 cases vehicles, including loads, exceeding those herein prescribed,
 20 may be operated under special permits granted as hereinafter pro-
 21 vided.

Special Permits.

Sec. 90. The special permit required by sections No.....

2 and No.....of this article, for the operation of a vehicle

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3 whose size or weight with load exceeds the limits prescribed in
 4 this act, shall be in writing, and be issued at the discretion of the
 5 Commission, or of those officials of the state's political sub-divi-
 6 sions who have charge of the highways, roads and bridges over
 7 which such vehicle is to operate. Such permit may be issued for a
 8 single trip or for a definite period not beyond the date of the ex-
 9 piration of the vehicle registration, and shall designate the roads
 10 and bridges to be used. Any person operating a vehicle under
 11 such permit shall pay to the Commission or other authorities,
 12 having charge of the maintenance of said roads or bridges, the

13 amount of any and all damage or damages that may be caused to
14 any road or bridge by reason of the operation of such vehicle
15 thereon, and the possession of such permit shall not relieve any
16 person from the liability for such damages.

17 No vehicle of the kinds and weights enumerated in this sec-
18 tion shall be operated on the open country highways, suburban
19 streets, or urban streets in this state at a greater rate of speed
20 than herein prescribed. For the purposes of this act an "open
21 country highway" shall be regarded as a highway or portion thereof
22 greater than one-quarter of a mile in length along either side of
23 which the buildings average more than three hundred feet apart,

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24 a "suburban street" as such highway or portion thereof not less
25 than one-quarter of a mile in length on either side of which the
26 buildings average less than three hundred but more than fifty
27 feet apart; an "urban street" shall be such highway, or portion
28 thereof, other than an open country highway or suburban street.

Speed Limits.

Sec. 91.

	Maximum Weight including Gross Weight of Vehicles and load	On Open Country Highway	On Sub- urban Street	On Urban Street
2 Vehicles designed for				
3 carrying not more than				
4 seven passengers ..	6,000 lbs.	25 miles	20 miles	15 miles
5 Other vehicles equip-				
6 ped with pneumatic				
7 tires		25 "	20 "	15 "
8 Vehicles equipped with				
9 solid tires	4,000 lbs.	25 "	20 "	15 "
10 Over	4,000 lbs.	15 "	15 "	10 "
11 Steel tired vehicles over	2,000 lbs.	5 "	5 "	5 "

12 Any person who shall operate on any highway in this state a
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13 vehicle whose size or weight is in excess of that herein prescribed,
14 or who shall operate a vehicle at a greater rate of speed than that
15 herein allowed shall be guilty of a misdemeanor, and be punished

16 by a fine of not less than ten dollars, nor more than one hundred
17 dollars, for the first offense, and not less than fifty dollars, nor
18 more than five hundred dollars for the second or subsequent of-
19 fense.

Sec. 92. Every person operating a vehicle upon any highway
2 in this state shall observe the following traffic rules and regu-
3 lations:

4 (a) All vehicles not in motion shall be placed with their sides
5 as near the right hand side of the highway as practicable, except
6 on city streets where traffic is obliged to move in one direction
7 only.

8 (b) Slow moving vehicles shall at all times be operated as
9 close to the right hand side of the highway as practicable.

10 (c) An operator meeting another vehicle coming from the
11 opposite direction on the same highway shall turn to the right
12 of the center of the highway so as to pass without interference.

13 (d) An operator in rounding curves shall keep his vehicle
14 as far to the right on the highway as reasonably possible.

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15 (e) An operator of a vehicle overtaking another vehicle going
16 in the same direction and desiring to pass the same shall pass
17 to the left of the vehicle so overtaken, *provided* that the way
18 ahead is clear of approaching traffic, but if the way is not clear
19 he shall not pass unless the width of the roadway is sufficient to
20 allow his vehicle to pass to the right of the center thereof in the
21 direction in which his vehicle is moving; *provided, further*, that
22 no operator shall pass a vehicle from the rear at the top of a hill
23 or on a curve where the view ahead is in any way obscured or
24 while the vehicle is crossing an intersecting highway. An op-
25 erator overtaking and desiring to pass a vehicle shall blow his
26 horn and the operator of the vehicle so overtaken shall promptly,
27 and upon such signal, turn his vehicle as far as reasonably pos-
28 sible to the right in order to allow free passage on the left of his
29 vehicle.

30 (f) An operator intending to turn his vehicle to the left shall
31 extend his arm in a horizontal position and slow down.

32 (g) An operator intending to turn his vehicle to the right
33 shall extend his arm with the forearm raised at right angles and
34 slow down.

35 (h) An operator intending to stop his vehicle shall extend his

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36 arm and move it up and down in a vertical direction.

37 (i) An operator of a vehicle shall have the right of way over
38 the operator of another vehicle who is approaching from the left
39 in an intersecting highway, and shall give the right of way to an
40 operator of a vehicle approaching from the right on an inter-
41 secting highway.

42 (j) An operator of a vehicle shall bring the same to a full
43 stop not less than five feet from any street car which has stopped
44 or is about to stop to receive or discharge passengers, and shall
45 remain standing until such car has taken on or discharged said
46 passengers; *provided, however*, that said operator may pass such
47 street car where a safety zone is established by the proper author-
48 ities; and *provided further*, that said operator may pass such
49 street car at a distance of at least eight feet therefrom when out-
50 side the limits of any incorporated town or city; and, *provided*
51 *further*, that he shall have slowed down and proceeds cautiously.
52 Any person driving or operating a motor vehicle in violation of
53 this section shall be guilty of a misdemeanor and upon convic-
54 tion thereof shall be punished by a fine of not less than twenty-
55 five nor more than one hundred dollars, or imprisoned in the
56 county jail not less than one nor more than six months, or both,

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57 at the discretion of the court or justice trying the case.

58 (k) Upon approaching any person walking in the traveled
59 portion of any public highway or a horse or any animal being led,
60 ridden or driven thereon, or a crossing of intersecting public
61 highways, or a bridge or a sharp turn, or a curve, or a deep de-
62 scent, and also in passing such person or such horse or other an-
63 imal, and in traversing such crossing, bridge, turn, curve or de-
64 scent, a person operating a motor vehicle or motorcycle shall have
65 the same under control and shall reduce its speed to a reasonable
66 and proper rate. If such horse, or other animal being so led,
67 ridden or driven shall appear to be frightened, or if the person
68 in charge thereof shall signal so to do by raising his or her hand
69 vertically, the person operating such motor vehicle or motorcycle
70 shall bring the same to a stop, and if traveling in the opposite
71 direction, shall remain stationery as long as may be reasonable
72 to allow such horse or other animal to pass, or if traveling in the
73 same direction, shall use reasonable caution in thereafter passing

74 such horse or animal, but no person shall give such signal to stop
75 unless necessary.

76 (l) An operator shall not use the cut-out of a motor vehicle
77 while on any highway in this state.

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78 (m) An operator of a motor vehicle or tractor shall sound
79 his horn or other signaling device when approaching points on
80 the highways where the view ahead is not clear, or where the
81 view of the side of an intersecting highway is obstructed, *pro-*
82 *vided* that in no case shall such horn or signaling device to be
83 used for the purpose of making any unnecessary noise.

84 (n) Whenever there is not sufficient light to render clearly
85 discernible a substantial object on the highway at a distance of
86 two hundred feet ahead, the operator of a vehicle shall light and
87 keep lighted all the lamps with which, under the provisions of
88 this act, said vehicle must be equipped; *provided*, that in the event
89 of a *bona fide* failure of one or more lights the operator may pro-
90 ceed to destination; *provided* he sounds his horn or other signaling
91 device once in every four hundred feet, and proceeds at a rate of
92 speed not greater than ten miles per hour to the nearest place
93 where he can put his lamps in order. Spotlights used on a ve-
94 hicle having a left-hand drive shall be placed on the left hand
95 side of such vehicle, and the rays of such spotlights shall not be
96 thrown to the left of the center of the vehicle for more than one
97 hundred feet in advance thereof, while the vehicle is in motion;
98 a spotlight used on a vehicle having a right hand drive shall be

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99 placed on the right hand side of such vehicle and the rays of such
100 spotlight shall at all times be on the right of the center line of the
101 car. No person shall turn off any of the lights of a vehicle for
102 the purpose of avoiding arrest or identification.

103 (o) All vehicles carrying poles or other objects which pro-
104 ject more than five feet from the rear, shall, during the period
105 of from one-half hour after sunset to one-half hour before sun-
106 rise, carry a red light at or near the rear end of the pole or other
107 object so projecting. During the period of one-half hour before
108 sunrise to one-half hour after sunset vehicles shall carry a dan-
109 ger signal at or near the rear end of the pole or other object so
110 projecting.

111 (p) Any person who shall be found guilty of violating any

112 of the provisions of this section shall be deemed guilty of a mis-
113 demeanor and punished by a fine of not less than ten dollars, nor
114 more than one hundred dollars.

Sec. 93. In case of an accident the operator of a vehicle shall
2 stop immediately, and, upon request, give his name, address and
3 the number of his operator's license, and render such assistance
4 as may be reasonable and necessary; *provided*, that in all cases of
5 accident resulting in injury to any person the operator shall im-
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6 mediately report the details of the same to the Commission. Any
7 person violating any of the provisions of this section shall be
8 deemed guilty of a misdemeanor and shall be punished by a fine
9 of not less than twenty-five dollars, nor more than one hun-
10 dred dollars, for the first offense; *provided*, that any person con-
11 victed of failing to stop and give his name and render assist-
12 ance in case of a serious injury to any person shall be subject
13 to a fine of not less than one hundred dollars nor more than
14 one thousand dollars, or to imprisonment for not less than thirty
15 days nor more than one year. This penalty shall apply to an
16 owner as well as to an operator.

Sec. 94. Pedestrians shall not use the roads for travel except
2 when obliged to do so by the absence of sidewalks reasonably
3 suitable for their use, in which case they shall keep as near as
4 possible to the left hand side of the street..

5 Pedestrians shall not stop nor congregate on any road in such
6 a manner or under such circumstances as to obstruct the free
7 use of the same for vehicular traffic.

8 A pedestrian shall not cross a road except at a regular crossing
9 thereof, *provided* such crossing is within three hundred feet
10 of another regular crossing on the same road. For the purpose

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11 of this act, a regular crossing shall be regarded as the space
12 which would be covered by the projection of the sidewalk of one
13 road upon an intersecting road, or such other place between in-
14 tersecting roads as are plainly designated by proper authorities;
15 *provided, however*, that pedestrians shall not cross roads at regu-
16 lar crossings where traffic officers are stationed, except upon proper
17 signal of such officer.

18 No person shall play on a road or use in play thereon roller
19 skates, coasters, or any similar vehicle or toy or other articles on

20 wheels or runners (except bicycles, tricycles, and motorcycles) ex-
21 cept in such areas as may be specially designated for that pur-
22 pose by the properly constituted authorities.

23 Any person who shall be guilty of violating any of the provisions
24 of this section shall be guilty of a misdemeanor, and shall be
25 punished by a fine of not less than five dollars nor more than
26 fifty dollars.

Sec. 95. No chauffeur or other person having the care of
2 motor vehicles for the owner shall receive, directly or indirectly,
3 any bonus or discount from a person furnishing supplies to or
4 doing work for such owner of a vehicle; and no person furnishing
5 any supplies to or doing any work for the owner of a vehicle
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6 shall give or offer, directly or indirectly, any chauffeur or other
7 person having the care of a motor vehicle for the owner any
8 bonus or discount for such supplies or work. Any person violating
9 any part of this section shall be punished by a fine of not less
10 than twenty-five dollars, nor more than one hundred dollars.

11 No person shall, without authority of the owner or person in
12 charge thereof, climb upon, or into, or swing upon, any vehicle,
13 whether the same is in motion or at rest, sound any horn or
14 any signaling device, or attempt to manipulate any of the levers,
15 the starter, brakes or machinery thereof, or set said vehicle in
16 motion, or damage, tamper or interfere with same. Any per-
17 son violating any portion of this section shall be deemed guilty
18 of a misdemeanor, and shall be punished by a fine of not less
19 than five dollars, nor more than twenty-five dollars.

20 No person shall throw on or into the roads any nails, wire,
21 scrap metal, glass, crockery, or other substance injurious to the
22 feet of persons or animals, or to tires of vehicles. Any person
23 violating any provision of this section shall be deemed guilty of
24 a misdemeanor and shall be punished by a fine of not less than
25 five dollars, nor more than twenty-five dollars.

Sec. 96. All moneys received by the Commission pursuant to
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2 the provisions of this act, except such as shall be necessary for
3 the purpose of making refunds, as herein provided, shall be ac-
4 counted for and remitted by the Commission to the state treas-
5 urer.

6 Such remittances shall be made on the tenth day of each and

7 every month and shall be accompanied by a statement of the
8 receipts and disbursements of the Commission for the preceding
9 month.

10 The moneys remitted by the Commission as aforesaid, shall be
11 deposited by the state treasurer to the credit of the state road
12 fund.

Sec. 97. No motor or other vehicle shall be operated over any
2 public road or highway, or over any street or alley within an in-
3 corporated city or town in this state for the carriage of pas-
4 sengers, freight or merchandise for hire, in such manner as to
5 afford a regular means of transportation by indiscriminately re-
6 ceiving and discharging passengers, freight or merchandise along
7 the route on which the vehicle is operated, or for transporting
8 passengers, freight or merchandise for hire as a business between
9 fixed and regular termini, until the owner or operator of such
10 vehicle shall have first made application to and secured from
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11 the proper licensing authority a permit to operate such vehicle.
12 If such applicant for license shall desire to operate such vehicle
13 wholly within any city or incorporated town, such authority shall
14 be the city or town council or corresponding body; in all other
15 cases such authority shall be the State Road Commission.

16 The application for such permit shall state the capacity of
17 such vehicle or vehicles, the purpose for which the same is to be
18 used, route over which the same shall travel, and the rates pro-
19 posed to be charged, and such other matters as the commission, or
20 other licensing authority, as the case may be, shall from time to
21 time prescribe. Before issuing any such permit, the commis-
22 sion or other licensing authority, shall ascertain the public
23 necessity for the proposed service. Such permit in any case may
24 be denied, where public welfare will not be promoted by the grant-
25 ing thereof. If the permit be granted, the State Road Commis-
26 sion, or other licensing authority, as the case may be, shall pre-
27 scribe the route, schedule, fare or tariff in connection with such
28 service, and may make such other rules and regulations rela-
29 tive to the operation of such vehicle or vehicles, as
30 public justice may demand. When such permit is is-
31 sued, no such motor vehicle shall change its route, sched-

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32 ule, fares or tariff, without the permission of the state

33 road commission, or other licensing authority, as the
34 case may be. If such motor vehicle be for the carriage of pas-
35 sengers, it shall be plainly marked, so as to designate the route
36 covered, and shall have posted therein the schedule of fares
37 charged; if such vehicle be for the carriage of freight or mer-
38 chandise, it shall be appropriately marked with plain letters and
39 figures, showing the load authorized to be carried. The driver
40 of any such vehicle shall, when requested, produce such permit,
41 or a cetrified copy thereof. The State Road Commission, or other
42 licensing authority, shall adopt and publish such rules and regu-
43 lations as may be found necessary to carry out the provisions of
44 this section. Permits, when granted, shall be good until the first
45 day of January next following, and may be renewed at their ex-
46 piration, unless for some good cause the commission, or other
47 licensing authority shall refuse to reissue the same. Bond to be
48 approved by the Commission conditioned according to law shall
49 be required of each applicant to whom such permit is granted,
50 in the sum of not less than five hundred dollars and not more than
51 five thousand dollars.

52 Any person violating any of the provisions of this section
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53 shall be guilty of a misdemeanor, and upon conviction thereof,
54 shall be punished with a fine of not less than five dollars, nor
55 more than two hundred dollars and in addition thereto, such
56 permit may be revoked, or the license taken away by the com-
57 mission or other licensing authority having jurisdiction thereof.

Sec. 98. The provisions of this act shall apply in general
2 throughout the state, and no political sub-division thereof shall
3 make or enforce any ordinance, order, rule or regulation imposing
4 fines and penalties other than those herein prescribed, or decreas-
5 ing the speed, size and weight of vehinles as herein defined;
6 *prvided, however*, that any incorporated town or city in this state
7 shall have power to enact and enforce ordinances and regulations
8 limiting the speed of vehicles upon its streets, alleys and other
9 public thoroughfares within its limits, and likewise limiting the
10 size and weight of vehicles upon such streets, alleys and other
11 public thoroughfares within its limits as are not designated by
12 the State Road Commission as connecting parts of the state road
13 system; and *provided further*, that any incorporated city or town
14 shall have power to regulate or forbid the parking of vehicles

15 upon any designated streets, alleys and other public thorough-
16 fares within its limits, and to regulate the progress of traffic at
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17 street intersections in congested districts thereof; and *provided*
18 *further*, that any incorporated town or city shall have the power
19 to impose and collect license taxes upon the owners and operators
20 of vehicles in addition to the license taxes required by this act,
21 but such taxes may be imposed only in cases where such taxes are
22 imposed hereunder, and shall not exceed.....per centum of
23 the tax provided for by this act.

Sec. 99. In addition to the general county or district levy, the
2 county court may lay a county road levy not to exceed twenty-five
3 cents on each one hundred dollars assessed valuation of all taxable
4 property in the county, the proceeds of which shall be known as
5 the county road fund and shall be expended for the construction,
6 improvement and maintenance of the county-district roads in said
7 county, and for the construction and maintenance of the bridges
8 thereon.

Sec. 100. The county court of any county may contract or
2 pay for making, improving and keeping in order the whole or
3 any part of any county-district road within the county. The
4 court may permanently improve by the use of asphaltum, concrete,
5 brick, stone, block, or by macadamizing or other process of equal
6 merit, the county-district roads within their county, and may
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7 contract therefor with any contractor for the use of any of the
8 foregoing systems and take bonds and security in a penalty equal
9 to fifty per centum of the estimated cost of the work in question,
10 from any such contractor for the faithful performance of his con-
11 tract.

Sec. 101. The county court of any county when about to im-
2 prove any of the roads aforesaid, in the manner aforesaid, may
3 apply to the State Road Commission for plans and specifications
4 of the character of road proposed to be built, constructed, recon-
5 structed or repaired. It shall be the duty of the said Commis-
6 sion upon such request to furnish such plans and specifications
7 free of charge.

Sec. 102. Subject to the limitations of section seven and eight
2 of article ten of the constitution, and when in the opinion of the
3 county court the levies provided by law, are insufficient to con-

4 struct any county-district road, and the bridges thereon, the said
5 court, upon filing with the clerk thereof a petition praying for the
6 construction of such improvement, signed by twenty-five per cent
7 of the legal voters within any magisterial district, or in each of
8 two or more magisterial districts in which such improvement is
9 located, or in such county (such percentage to be determined on

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10 the basis of the aggregate county or magisterial district, or dis-
11 tricts, vote cast for governor at the last preceding general election
12 as the case may be) the county court shall make an investigation
13 of the proposed improvement as herein provided, and shall submit
14 the propositions of the issuance of bonds or for the authorization
15 of a special road fund levy for a period of years, not to exceed ten,
16 to the legal voters of the county, district, or districts, as the case
17 may be. Such petition shall contain a statement specifying the
18 roads to be built and improved, and a prayer for the submission
19 of a road bond proposition or a special road fund levy proposition
20 to provide funds for such improvement. Upon the filing of such
21 petition with the clerk of the county court, said court shall with-
22 out delay instruct the county engineer, or some other engineer
23 specially employed by it, or apply to the state road commission
24 for an engineer to make an investigation and to report to the court
25 an estimate of the probable cost of the proposed improvement.
26 Upon the approval of such proposed plan, said court shall sub-
27 mit to the legal voters of the county, district or districts, a propo-
28 sition for such issue and sale of bonds, or for such special road
29 fund levy, as the case may be. The order of the county court
30 submitting such proposition shall contain a summary of the re-
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31 port herein provided for, setting forth the approximate extent
32 and estimated cost of the proposed road improvement, the kind and
33 class of work, the valuation of all the property of the county, dis-
34 trict or districts as the case may be, and the existing indebtedness.
35 Such order shall specify the work for which the money to be raised
36 by the sale of bonds or the laying of a special road fund levy is to
37 be appropriated, and shall provide that no part of the proceeds of
38 such bonds or levy shall be used for any other purpose than the
39 improvement of the road or roads specified in such order; subject
40 to the power and rights of the county court to alter or change the
41 location of any such road so as to obtain a better grade or align-

ment thereof or to reduce the cost of construction, improvement or maintenance. The county court shall cause a vote to be taken upon the question of such bond issue or such levy at the several voting places in said county, district or districts, at the succeeding general election for state and county officers, or any special election which is first held in the county after such vote is ordered taken; or, if the petition so specifies, the court shall order a special election for the purpose within ninety days from the certification of approval of the engineer's report herein provided for; but such order for any election on the question of a bond issue or a special

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road fund levy together with a summary of the engineer's report herein provided for, shall be published throughout the said county, district or districts, in which said vote is to be taken, in the following manner:

The clerk of the county court shall cause as many copies of such order to be made or printed as may be necessary, and sign the same; he shall forthwith post one in a conspicuous place in his office, and one at the front door of the court house.

The court shall direct a copy to be published once each week for four consecutive weeks prior to the date of said election in two newspapers of opposite politics, if such there be, published in said county, district or districts.

Sec. 103. A vote shall thereupon be taken and the result ascertained under the regulations prescribed for a general election of county and district officers; or, if the said vote is taken at a special election ordered for the purpose, the same shall be held by commissioners appointed for the purpose by the county court at the time said election is ordered, and the result shall be ascertained and certified according to the regulations prescribed by law for ascertaining and certifying the election of county and district officers.

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The ballots used in taking such poll shall be the same as those used in voting for officers at the general election for state and county officers, except, when the same is taken at a special election, as hereinbefore provided, and there shall be written or printed thereon a brief statement of the question submitted, such as, in the case of a bond election:

"Special election to authorize a bond issue for the construc-

17 tion of county-district roads, according to the order of the.....
 18 entered on the.....day of.....";
 19 and directly underneath, in two separate lines, shall be printed
 20 the words:

21 "For Road Bond Issue and Levy for Payment".

22 Against Road Bond Issue and Levy for Payment."

23 and in the case of an election on a special road fund levy propo-
 24 sition:

25 "Special election to authorize a special road fund levy of.....
 26 cents annually for a period not to exceed.....
 27 according to the order of the.....
 28 entered on the.....day of....."; and
 29 directly underneath, in two separate lines, shall be printed the
 30 words:

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31 "For Special Road Fund Levy

32 Against Special Road Fund Levy."

33 If it shall appear by said poll that not less than three-fifth of
 34 the voters of the county or magisterial district or group of dis-
 35 tricts, who voted upon the proposed issuance of bonds or the pro-
 36 posed special road fund levy, have voted in favor of the same, the
 37 county court shall then have authority to issue the amount of the
 38 bonds or to lay the levy so voted in the name of the county, magis-
 39 terial district, or magisterial districts grouped together for the
 40 purpose of making one improvement, or any less amount, on any
 41 such terms as they may deem advisable, and provide for the pay-
 42 ment of such bonds by taxation on the county, district or group
 43 of districts, or to lay such levy, as the case may be.

44 The county court shall have authority to issue and shall issue
 45 as provided by law, said bonds for and in the name of said county,
 46 district or group of districts, and shall make provision for the
 47 payment of principal and interest of the same by said county,
 48 district or group of districts as is specified in the order under
 49 which said vote is taken, or shall lay such levy on all the taxable
 50 property of such county, district or group of districts, as the
 51 case may be.

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52 The president of the county court shall have power, when so
 53 directed by such court, by an order entered of record therein, to
 54 execute, sell and deliver the bonds of said county, district or dis-

55 tricts and receive the proceeds therefrom, the said bonds of said
 56 county, district or group of districts shall be valid and binding
 57 thereon when signed by the president of the county court of such
 58 county and countersigned by the clerk thereof, with the seal of the
 59 county attached thereto.

Sec. 104. The proceeds of such bond issue or of such special
 2 road fund levy shall constitute a fund to be expended by the
 3 county court for the purpose specified in the order under which
 4 said vote was taken, and for no other purpose. This section
 5 and the two sections hereof immediately preceding shall be so con-
 6 strued as to permit a single district or a group of districts to
 7 issue bonds or authorize such levy for the construction and im-
 8 provement of county-district roads in such district or districts;
 9 *provided, however*, that the interest accruing from the deposit of
 10 funds derived from the sale of road district bonds in any and all
 11 county depositories shall be credited to the district road fund by
 12 the sheriff of the county.

Sec. 105. No county wherein any magisterial district or dis-

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2 tricts have heretofore issued bonds for the construction of roads
 3 and such district bonds, or any part thereof, are still outstanding
 4 and unpaid, shall authorize the issuance of county road bonds or
 5 authorize a special county road fund levy as provided in section
 6and section.....of this act, unless three-fifths
 7 of the voters of each of such district or districts, who vote on
 8 any such county or district bond proposition or such county or
 9 district proposition for a special road fund levy, shall vote in
 10 favor of such bond proposition, or such special road fund levy
 11 proposition in an election at which such county or district propo-
 12 sition may be submitted under the provisions of this act.

Sec. 106. Nothing in this act contained shall affect the
 2 validity of any bond issues or special levies heretofore made or au-
 3 thorized, nor prevent or affect the performance of any contract
 4 heretofore entered into by any county court relating to the im-
 5 provement of roads. And notwithstanding anything herein con-
 6 tained, any and all moneys now or hereafter to come into the
 7 hands of any county court as the proceeds of any bonds issue or
 8 special levy heretofore voted or authorized to be voted in any
 9 county or district for road improvement or construction, shall be
 10 paid out and expended by such court in the manner provided

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11 therefor at the time such bond issue or special levy was author-
12 ized.

Sec. 107. In addition to the general county and district levy,
2 the county court shall lay a district levy not to exceed fifteen cents
3 on each one hundred dollars' assessed valuation of all taxable
4 property in each of the several districts of said county, the pro-
5 ceeds of which shall be known as the district road fund of such
6 district, and shall be expended only for the construction, improve-
7 ment and maintenance of the roads and parts thereof in said dis-
8 trict, and for the construction and maintenance of bridges thereon
9 after said roads are properly located. In case of calamity, such as
10 floods and the like, which shall result in unusual damage, or the
11 washing away of bridges or roads, the county court of any county,
12 with the written approval of the state tax commissione, may lay
13 a sperial emergency district levy in excess of the district road
14 levy hereinbefore provided, not to exceed ten cents on each one
15 huntred dollars' assessed valuation of the taxable property of the
16 district, for such year or years as may be named in such apporval,
17 but in no case shall the combined district road levy and emergency
18 district levy, exceed twenty-five cents on each one hundred dol-
19 lars' assessed valuation of the taxable property of said district.

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20 Nothing contained in section two of chapter twenty-eight-a of the
21 Code shall be so construed as to limit the power and authority of
22 the county court to lay the respective county and district road
23 levies provided for in this act, though by so doing the total levies
24 laid may exceed the limit provided by said section.

Sec. 108. Notwithstanding anything herein contained, any and
2 all moneys now or hereafter to come into the hands of any county
3 court as the proceeds of any county or district road levy laid for
4 the fiscal year ending June thirtieth, one thousand nine hun-
5 dred and twenty-one, or for any preceding year, shall be expended
6 by said county court for the construction and maintenance of
7 county and district roads in the manner provided by law previous
8 to the taking effect of this act; *provided, however*, that it shall be
9 the duty of the several county courts of the state to maintain
10 and keep in repair such of the roads heretofore known as Class A
11 roads in their respective counties as now constituted until such
12 time as the same may be incorporated in the state system pro-

13 vided for in this act and shall be taken over for maintenance by
14 the state, and such maintenance shall be paid for out of the county
15 road levy provided for in this act.

Sec. 109. The county court of each county shall levy for road
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2 purposes a capitation tax of one dollar on each male inhabitant of
3 the county who has attained the age of twenty-one years, and who
4 is not a pauper or of unsound mind; such capitation tax shall be
5 collected by the assessor as provided by Section 53 of Chapter 29
6 of the Code and the proceeds thereof shall be credited to the county
7 road fund.

Sec. 110. There is hereby created in the several counties of the
2 state the office of county road engineer. The county court in
3 each of the counties in this state may appoint as county road
4 engineer some engineer who is a practical road builder and com-
5 petent to perform the duties relating to the roads and keeping
6 records prescribed by this act, and who holds a certificate of effi-
7 ciency from the State Road Commission. In the event that the
8 county court shall not appoint a county road engineer as herein
9 provided, then it may appoint a competent man as road super-
10 visor for such county; but if a county road engineer be appointed
11 he shall be ex-officio the road supervisor for his county, and any
12 such official so appointed or designated by the county court to
13 have charge of road work in any county shall be deemed a sur-
14 veyor of roads within the meaning of the constitution. Every
15 county road engineer and road supervisor provided for in this

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16 act shall, before entering upon the duties of his office, give bond,
17 with security to be approved by the county court of the county,
18 in such sum as may be required by said court, the same to be
19 payable to the county court of the county, and to be conditioned
20 for the faithful performance of his duties. The county court of
21 any county not appointing an engineer, as in this section provided,
22 may employ a competent engineer for such time, and for such pur-
23 pose, and upon such terms as may be agreed upon between the said
24 court and said engineer.

25 Such county road engineer shall hold office for the term of two
26 years from and after the first day of January following his ap-
27 pointment, and until his successor is appointed and qualified. He
28 shall receive such compensation, either by salary or per diem as
29 may be fixed by order of the county court of the county; *provided*,

30 that the same shall not be less than nine hundred dollars, nor
31 more than four thousand dollars per year. Vacancies in the office
32 of county road engineer shall be filled by appointment for the
33 unexpired term. It shall be the duty of the clerk of the county
34 court to give written notice to county road engineers and road
35 supervisors of their appointment, as soon thereafter as practicable;
36 and each person so appointed shall, within ten days after having
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37 been notified of such appointment, qualify by giving bond as pro-
38 vided in the preceding section, and by taking the oath prescribed
39 by section five of article four of the constitution. Such road engi-
40 neer or supervisor shall be provided with office room free of rent in
41 the court house of his county.

Sec. 111. Any country road engineer or road supervisor may
2 be removed at any time by the county court of the county, upon its
3 own motion, for incompetency, malfeasance or misfeasance in office,
4 upon written charges after a hearing, of which ten days' notice
5 shall be given by serving a copy of such charges upon such officer.
6 Said hearing shall be held in the office of the county court of the

Sec. 112. The county road supervisor shall hold office for the
2 term of two years from and after the first day of January follow-
3 ing his appointment, and until his successor is appointed and
4 qualified. He shall be allowed a reasonable compensation by the
5 court for the time in which he is actually engaged in his official

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6 capacity, with actual traveling expenses when necessarily called
7 out on emergency cases. He may be removed in the matter provid-
8 ed for the removal of county road engineers, and vacancies shall be
9 filled by the court for the unexpired term.

Sec. 113. The county road engineer or road supervisor appoint-
2 ed as provided in this act shall in all matters co-operate with the
3 state road commission in such manner and to such extent as may
4 be required by said commission in its rules and regulations, and
5 shall at the same time act as the agent of the county court of the
6 county for which he was appointed, as to the supervision of roads
7 county, and if upon such hearing it appears that the charges are
8 sustained, the county court shall remove such officer, and forthwith
9 serve notice thereof upon him by mail. Such notice shall state
10 specifically the grounds for such removal, and the record of the
11 proceedings shall be filed in the office of such county court.

7 and other duties provided herein. He shall be subject to the gen-
8 eral authority of the county court and to the rules and regulations
9 prescribed by the state road commission, have general charge and
10 supervision as the representative of the county court of all the
11 county-district roads and bridges thereon within his county, and
12 shall see that the same are improved, repaired and maintained as
13 provided by law, and shall have the general supervision of the
14 work of constructing, repairing and improving such roads and
15 bridges in his county; shall superintend the construction and im-
16 provements made upon said roads and bridges under the provisions
17 of this act, and other work of like nature undertaken by the county
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18 court of the county, and shall make reports thereon from time to
19 time as the court may direct; shall advise and direct those employ-
20 ed by or under him including the road patrolman herein provided
21 for, as to the best methods of repairing, maintaining and improv-
22 ing such roads and bridges; shall examine the various formations
23 and deposits of gravel and stone in his county for the purpose
24 of ascertaining the materials which are most available and best
25 suited for the improvement of the public roads therein, and when
26 required by the State Road Commission shall submit samples of
27 such materials and make a written report in respect thereto;
28 shall establish or cause to be established such grades and recom-
29 mend such means of drainage, repair and improvement as may seem
30 to him necessary, when requested by the county court; shall cause
31 to be placed and kept at the forks or crossings of such roads a
32 guide board, on which shall be stated in plain letters the most
33 noted place to which each road leads and the number of miles
34 thereto; and shall, under the direction of the county court, as
35 aforesaid, perform all such duties as may be required to keep
36 such roads in open and passable condition and in the best repair
37 possible with the means at his disposal; and shall perform such

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38 other duties, regarding county-district roads as may be required
39 by the county court.

Sec. 114. By and with the advice and consent of the county
2 court the county road engineer, or supervisor, may employ such
3 assistants, clerks, foremen, inspectors, agents and employees as
4 may be deemed necessary to properly plan, locate, construct, main-
5 tain and care for the roads, payrolls, files, communications and

6 records under his charge; and he may discharge such agents and
7 employees at pleasure. Such agents and employees may receive
8 such compensation per day, month or year as may be deter-
9 mined by the county court of the county, according to the services
10 rendered.

Sec. 115. It shall be unlawful for any county court or any
2 county engineer or supervisor to appoint or employ, as a laborer
3 on the public roads, the father, son, son-in-law, grandson, brother,
4 brother-in-law, nephew or first cousin by blood of any member of
5 such court or of such engineer or supervisor; *provided*, a sufficient
6 amount of other efficient labor can be secured within the vicinity.
7 Any person violating this provision shall be guilty of a misde-
8 meanor, and on conviction thereof, shall be fined not less than
9 ten dollars nor more than one hundred dollars.

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10 Each county road engineer or supervisor shall report to the
11 county court at each regular term thereof and at such other time
12 as the court may require, a full itemized statement of the expen-
13 ditures made by him since his last report, giving number and
14 names of hands and number of horses employed by him, the time
15 each was employed, the amount paid to or for each, and such
16 other matter as he may deem necessary or the court may require.
17 Such statements of account shall first have been prepared ac-
18 cording to the public accounting laws of this state and have
19 been certified to by the agent or agents of the county road engineer
20 or supervisor having charge of the work.

Sec. 116. The county road engineer or supervisor with the
2 approval of the county court, may purchase for the use of the
3 county upon county-district roads, stone crushers, road rollers,
4 traction engines, road machines for grading and scraping, tools
5 and other implements, which shall be paid for from such road fund
6 as the county court may direct, but any contract for the purchase
7 of such equipment shall not be valid until approved by the county
8 court. Such engineer or supervisor may in like manner lease or
9 hire any of such equipment, the same to be paid for out said county
10 road fund.

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Sec. 117. The county road engineer or supervisor may, with
2 the approval of the county court, purchase any gravel, stone, earth
3 or wood necessary in the construction, repair or maintenance of

4 any county-district road, from any owner of such materials within
5 or without the county. If such officer or the county court shall
6 not be able to agree with such owner upon the price to be paid for
7 such material, the officer by directions of said court may proceed
8 to acquire such property and the right to take and remove the same
9 by condemnation proceedings if the same is located within his said
10 county. Any such road officer shall also be authorized to enter
11 upon any land adjacent to a county-district road for the purpose of
12 opening any existing drain or ditch or for digging any ditch or
13 drain for the free passage of water in order to drain such road;
14 and to enter upon any land adjoining rivers, streams or creeks to
15 drive piles, throw up embankments or perform any other labor
16 necessary to keep such rivers, streams and creeks within their
17 proper channel and prevent their encroachment upon such roads
18 or abutments of bridges, or any other damage to such roads or
19 bridges, or for the purpose of constructing and providing detours
20 for travel during the construction or improvement of any county-
21 district road, and for any damage done to such lands by entry there-
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22 on as aforesaid, the county court may make a reasonable and proper
23 allowance to the owner. All moneys provided by this section to be
24 paid as compensation or damages shall be paid from the respective
25 funds applicable to the maintenance of the roads benefited.

Sec. 118. It shall be the duty of the county road engineer or
2 supervisor at the end of each fiscal year to ascertain and report in
3 writing to the county court of the county, the amount of money
4 necessary to open and keep in repair all county-district roads in
5 each of the magisterial districts of the county, payable during the
6 next ensuing fiscal year, and it shall be the duty of the said court
7 to carefully examine such reports, and estimates therein contained,
8 and to make such alterations and corrections therein as the court
9 may think proper. Said report shall show the amounts, estimated
10 respectively for the maintenance of main county and of district
11 roads, and the same shall be used by the court as the basis of lay-
12 ing all levies provided for in this act.

13 Whenever in regard to the provisions of this act the same pow-
14 ers or duties have been conferred on, or prescribed for, two or more
15 officials or agencies, or wherever any question as to a conflict of
16 authority shall arise, the power and authority of the State Road
17 Commission shall prevail over that of the county court, the county

18 court over the county engineer or supervisor and the county en-
19 gineer or supervisor over any other official or employee engaged
20 in work on the district roads.

District Road Superintendent.

Sec. 119. The office of district road superintendent is hereby
2 created. The county court of each county may between the first
3 day of March and the first day of April of each year, appoint a
4 road superintendent for each magisterial district, who shall be an
5 able-bodied man, and a resident of such district or county. The
6 term of office of such superintendent shall begin on the first day
7 of April and continue for one year.

Sec. 120. The county court may fill any vacancy occurring in
2 said office, and may remove a superintendent for good cause. Each
3 superintendent of roads shall enter into a bond with the county
4 court, with security to be approved by the court, in the sum of not
5 less than five hundred dollars, conditioned for the faithful per-
6 formance of his duties, and to account for and pay over all mon-
7 eys, tools and materials that may come into his hands by virtue of
8 his office.

Sec. 121. The clerk of the county court shall, upon the ap-
2 pointment of a road superintendent by the county court, make out
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3 and deliver to said road superintendent a certificate showing his
4 appointment, upon which certificate shall be printed a statement
5 of the general duties of said superintendent as hereinafter pro-
6 vided.

Sec. 122. It shall be the duty of each road superintendent,
2 with the funds at his command, to keep open all drains and cul-
3 verts extending along, under or over county-district roads, to see
4 that all such roads are well drained and kept clear of rocks, fallen
5 timber, land slides, unnecessary shade, and other obstructions of
6 every kind and character. He shall have police supervision and
7 control over the placing of private foot crossings across any coun-
8 ty-district road in his district; shall remove or cause to be removed
9 all dead timber standing within fifty feet of such road. Across
10 each stream crossing a county-district road, said superintendent,
11 where necessary, shall see that there is placed and kept a sufficient
12 bridge, bench, or log for the accommodation of foot passengers;
13 shall inspect all county-district bridges within his district and see

14 that the same are in a safe condition; inspect the railing on said
15 bridges and see that the same is kept in good repair, and subject
16 to the direction of the county road engineer or county road super-
17 visor, as the case may be, said superintendent shall perform such

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18 other duties with respect to the county-district roads of his dia-
19 trict as the county court may prescribe.

Sec. 123. Such superintendent shall have general police su-
2 pervision over all county-district roads within his magisterial dis-
3 trict; including the streets and alleys of unincorporated villages,
4 and shall have authority to require abutting property owners to
5 remove and keep removed all garbage, refuse, and filth of every
6 kind and character that may accumulate on said streets and alleys
7 and order opened any street or alley on any town plat which is of
8 record in the clerk's office of the county court.

Sec. 124. The owner or tenant of land fronting on all public
2 roads shall construct and keep in repair all approaches and drive-
3 ways to and over the public roads, under the direction of the offi-
4 cer in charge and it shall be unlawful for such owner or tenant
5 to fill up any ditch or place any material of any kind or character
6 in any ditch so as in any manner to obstruct such ditch or to in-
7 terfere with the purposes for which it was made.

Sec. 125. The county court shall provide the road superin-
2 tendent with such equipment and supplies, as may be necessary
3 to the proper discharge of his duties under this act, the same to be
4 paid for out of any district road funds applicable thereto.

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Sec. 126. Every superintendent of roads shall turn over all
2 accounts, moneys and papers pertaining to his office, and all ma-
3 terials, tools, and equipment belonging to the said district or
4 county, to his successor, taking receipts therefor in duplicate, one
5 of which shall be kept by the outgoing superintendent, and the
6 other filed with the clerk of the county court; if he fails to do so,
7 he shall be liable to a fine and imprisonment as provided in the
8 next section.

Sec. 127. Any superintendent who has been duly appointed
2 and accepted to the office, failing to perform the duties as pre-
3 scribed in this act, without just cause therefor, shall be guilty of
4 a misdemeanor; and upon conviction thereof, shall be fined not
5 less than twenty-five nor more than one hundred dollars, and,

6 moreover, shall be liable on his official bond for the breach of any
7 of its terms and conditions.

Sec. 128. Every superintendent of roads shall be allowed for
2 his services by the county a reasonable compensation for every
3 day necessarily employed by him in performing his official duties,
4 his account thereof when certified to by the county engineer for su-
5 pervisor and when audited and allowed by the court, shall be paid
6 as hereinbefore provided, out of the taxes collected for district
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7 road purposes, and constituting the district road fund. No road
8 superintendent shall engage in any other business which would
9 prevent his giving his time and attention to the roads of his dis-
10 trict, in accordance with such regulations as may be prescribed by
11 the county court.

Sec. 129. A county may acquire, by agreement, condemnation
2 or otherwise and hold the interest of the owners, shareholders or
3 stockholders or any one or more of them other than the state, in
4 any county-district road, bridge or public landing, so far as the
5 same is within the limits of said county.

6 Every public road, bridge or landing, and every street or alley
7 in any incorporated city, town or village heretofore established and
8 opened pursuant to law and which has not been lawfully discon-
9 tinued or vacated, shall continue as such, until properly discon-
10 tinued, and every road, street, or alley, used and occupied as a
11 public road, street or alley, shall in all courts and places be taken
12 and deemed to be a public road, street or alley (as the case may
13 be) whenever the establishment thereof as such may come in
14 question.

Sec. 130. If directed by the county court, such county road en-
2 gineer or supervisor shall divide the county-district roads of his
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3 county into convenient sections, not exceeding two miles in length,
4 and shall annually, after two weeks' notice by publication in some
5 newspaper published in the county, and by posting printed hand
6 bills at one public place at least in each district of the county, let
7 to contract the maintenance and repair of said roads, by contract
8 for the period of one year, to the lowest responsible bidder, taking
9 bond from the contractor in a penalty to be fixed by the court, and
10 with condition for the faithful performances of the duties of said
11 contract or under his said contract; and every such contract shall

12 be promptly reported by the county court and approved by it
 13 before the same shall become effective. The road engineer or
 14 supervisor shall furnish to any p'tson desiring to bid upon any
 15 such road contract, specifications of the work required to be done.

Sec. 131. If any section or sections be not sold at any sale or
 2 sales, made under the provisions of this section, for want of a bid-
 3 der or because of the rejection of any bids as provided for in this
 4 act, it shall be the duty of the county road engineer to sell such sec-
 5 tion or sections or new roads at private sale or have the same kept
 6 in repair, or such new roads opened, as provided in this act, or
 7 in any other manner the county court may direct. To this end he
 8 may employ and procure all necessary hands, horses and material

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9 for the proper discharge of his duties, at such compensation as the
 10 county court may determine according to the provisions set forth
 11 in this act.

Sec. 132. The interest which heretofore belonged to the state
 2 in any of the roads or bridges thereof and which have heretofore
 3 by legislative enactment been transferred to and vested in the va-
 4 rious county courts of the state shall remain as vested, except as to
 5 state roads and highways which may be established, taken over
 6 or incorporated into the system of state roads and highways pro-
 7 vided for in this act.

Sec. 133. The roads, bridges, and landings transferred by the
 2 state to the several counties in which they are located shall here-
 3 after be regarded as public roads, bridges and landing.

Sec. 134. No public road shall be established or discontinued
 2 or the location thereof changed without due notice thereof having
 3 been given according to the provisions of this act, except in case
 4 of changes made under section hereof.

Sec. 135. All notices and advertisements for the establishment,
 2 alteration or discontinuance of any road, bridge or landing shall
 3 be published at least two consecutive weeks in two newspapers of
 4 general circulation in the county where the road, bridge or land-
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5 ing lies and of different politics, if there be such within the county.

Sec. 136. No bridge unless it be exclusively for footmen and
 2 no county-district road shall be less than fourteen feet wide. All
 3 county-district roads which are now or which may hereafter be
 4 established in any of the counties of this state as public roads,

5 shall occupy a right of way less than thirty feet wide, exclusive
6 of slopes, pavements and fills, unless the county court shall have
7 made a special order for a different width, which order shall be
8 a matter of record in the office of the county clerk.

Sec. 137. The grade of any county-district road to be here-
2 after established shall not exceed five feet rise per hundred feet,
3 unless specially authorized by the county court when such grade is
4 impracticable as to distance or cost of construction, and in no
5 case shall a county-district road be established having a grade ex-
6 ceeding nine feet rise per hundred feet.

Sec. 138. Not more than two acres of land shall be condemned
2 for any landing, and no road or landing shall be established by
3 the county court of the county upon or through any lot of any
4 incorporated city, town or village without the consent of the owner
5 thereof except as herein otherwise provided.

Sec. 139. When any road is altered, the former road shall be
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2 discontinued to the extent of such alteration, and no further, and
3 the new one established.

Sec. 140. Nothing in this act shall be so construed as to pre-
2 vent any county court from acquiring by right any land for
3 county-district road purposes as provided in this chapter, but the
4 title to all rights of way, whether secured by gift, purchase or con-
5 demnation and all discontinuances of county-district roads shall
6 be reported by the county engineer to the county clerk and made
7 a matter of record in the county clerk's office.

Sec. 141. With the consent of the owner of land in which a
2 change is proposed to be made given in writing, setting forth the
3 exact changes proposed, the county road engineer or supervisor
4 may change any county district road in this county; *provided*,
5 such change does not materially increase the length or grade or re-
6 quire more work to keep the road in repair, or place the same on
7 worse ground than it was before such change, or render the said
8 road in any respect worse than it was before the change. Any
9 county road engineer who shall make such change otherwise than
10 that prescribed in this chapter shall be guilty of a misdemeanor
11 and on conviction thereof shall be fined not less than twenty-five
12 dollars nor more than one hundred dollars. And in case such
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13 change is made in violation of the provisions of this section, the

14 part of the road thus altered shall not be established as a county-
15 district road and the former location shall be continued as such.

Sec. 142. The county court of the county may, upon petition,
2 direct any county-district road, bridge or landing other than a
3 turnpike, or bridge or landing in which private citizens may hold
4 a majority of the stock, to be discontinued, but notice of such
5 petition must be published according to the provisions of this act,
6 and in addition, notices must be placed at three public places in
7 every district in which any part of the said road or landing may
8 be. Upon such petition, after notice given as aforesaid, the
9 county court shall appoint two or more viewers or a committee
10 of their own body, who, together with the county road engineer,
11 shall view such road or landing and report in writing whether,
12 in their opinion, and if any, what inconvenience would result
13 from discontinuing the same. Upon such report and other evi-
14 dence, if any, the court may discontinue the road, bridge or land-
15 ing, taking care in every case which is an established post road,
16 not to discontinue the same until another has been established;
17 and in case of a road which may have been established by means
18 of state aid the consent of the State Road Commission must have

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19 been obtained in writing, setting forth the changes allowed.

Sec. 143. When any person desires the establishment or altera-
2 tion of a county-district road, bridge or landing in any county,
3 he shall petition the county court of the county in which the road,
4 bridge or landing is situated, setting forth in his petition specifi-
5 cally the nature and location of the proposed work, and the county
6 court shall thereupon (and they may do so without such petition
7 in any case in which they deem the interests of the people of the
8 county require it) appoint two or more viewers, or a committee of
9 their own body, who together with the county road engineer, shall
10 view the ground and report in writing the advantages and dis-
11 advantages which, in their opinion, will result as well to indi-
12 viduals as to the public from the proposed work and the grades
13 and bearings of the proposed roads and the facts and circum-
14 stances that may be useful to enable the county court to determine
15 whether such work ought to be undertaken by the county, or if
16 the petition be for the establishment or alteration of a county-
17 district road leading from another public road or roads, whether
18 such road should be established, stating specifically whether it

19 would be necessary to take any burying ground, garden, yard,
20 orchard or any part thereof or to injure or destroy and buildings
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21 and the probable cost of the work, the names of the land owners
22 whose property would have to be taken or injured, which of them
23 would require compensation and the probable amount to which
24 each of them would be entitled. They shall make careful ex-
25 amination of other routes or locations than that proposed or peti-
26 tioned for, keeping in view at all times the possible future de-
27 velopment of the country and the accommodation of the general
28 traveling public, and shall report in favor of the one they prefer,
29 with the reasons for their preference. A map giving the grades
30 and bearings of the routes and locations shall be returned with
31 their report. The report may be recommitted by the court, with
32 or without special instructions, or upon petition, or upon their
33 own motion the court may appoint a special committee of viewers,
34 who shall make examination and report according to the provi-
35 sions of this section. In any case where it shall appear to the
36 county court that the interests of the general public may be pro-
37 moted thereby, they shall personally examine the proposed work,
38 or shall appoint a committee of their own body to make examina-
39 tion as herein provided.

Sec. 144. If the court at any time have sufficient evidence
2 before it to enable it to ascertain what would be a just compensa-

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3 tion to the proprietors and tenants, and if such proprietors and
4 tenants are willing to accept what the court deems just, the said
5 court upon such acceptance, being reduced to writing and signed
6 by the proprietors and tenants, may determine to undertake the
7 work.

Sec. 145. Upon hearing the parties interested in an applica-
2 tion for a county-district road, said county court shall decide for or
2-a against undertaking the proposed work on behalf of the county.
3 If it decides in favor of the same and the compensation for
4 damages, if any, are sustained, to be paid to any proprietor or ten-
5 ant be not fixed by agreement, it shall order proceedings to be
6 instituted and presented in its corporate name in the circuit court
7 of the county, pursuant to the forty-second chapter of the Code of
8 West Virginia, to ascertain what will be a just compensation, if
9 any, to each proprietor or tenant for the land proposed to be taken,

10 and the said court shall lay a sufficient levy for that purpose.
11 But, when such compensation, if any, shall be so ascertained, it
12 shall be at the option of the county court to pay the same or to
13 abandon the proposed undertaking. If it decides to pay the same,
14 it shall lay a sufficient levy, for that purpose as provided in this
15 act. In any case where the petition is for the establishment or
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16 alteration of a county-district road leading from the main public
17 road or roads, the court may refuse to undertake the proposed
18 work, unless the petitioner or some one for him, shall deposit with
19 said county court a sufficient sum to pay all damages and costs
20 sustained by reason of the establishment or alteration of such
21 road. In such case, if it seems proper so to do, the court may
22 establish any such road, upon conditions that the petitioner shall
23 pay all costs and damages as aforesaid, and make and keep in
24 repair such road, and erect and maintain in good repair one or
25 more gates across such road where the road passes through a
26 fence or fences, as is provided in section.....of this act; and
27 the court may also impose upon such petitioner, his heirs or as-
28 signs, and upon the public such other conditions in reference to
29 such road as the court may deem just. In the event that any of
30 the conditions, so imposed by the court are not fully complied
31 with, the court at any time, after giving at least sixty days'
32 notice to the public and to the petitioner, his heirs or assigns,
33 in such manner as the court may prescribe, may discontinue or
34 abandon such road.

35 But the court, instead of proceeding in the manner hereinbe-
36 fore provided in this section, is authorized to enter upon any
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37 lands, other than those prohibited by law, and locate and build
38 said road, and sixty days after said road is completed, cause to
39 be summoned thirteen freeholders, to be nominated by the court,
40 of whom the court may strike off four or any less number from
41 the list, and the property owners or their representatives, or such
42 of them as appear, may also strike off four or any less number,
43 and after eight names are stricken from the list the remaining
44 five shall be commissioners appointed to assess the damages here-
45 inafter provided. But where there is no appearance for the prop-
46 erty owners, or if they appear and do not agree as to any one or
47 more of the names to be stricken off on their behalf, or the right

48 to strike off any one or more names is waived on the part of
49 either of the property owners, or their representatives, or from
50 any cause the full number shall not be stricken off by the court
51 or the parties aforesaid, the names or additional names, as the
52 case may be, to be stricken from the list in order to reduce the
53 number to five, shall be ascertained by lot under the direction of
54 the court. Vancancies shall be filled, and any commissioner, for
55 good cause shown, may be removed by the court.

56 The said freeholders or commissioners shall go upon the land
57 and assess the damages and benefits, taking into consideration
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58 the benefits accruing to the property and the damages to it sus-
59 tained, and shall fix the compensation or damages as said commis-
60 sioners may see proper, and the amount so fixed shall be paid out
61 of the road fund of the county or district at the discretion of the
62 court.

63 If the damages so assessed be not satisfactory to the property
64 owner or owners, proprietor or tenant, or to the court, he or they,
65 or said court, may, within six months after the assessment afore-
66 said, appeal or apply to the circuit court of the county and de-
67 mand a trial therein, as in other condemnation proceedings; *pro-*
68 *vided, however,* before entering upon said land as authorized by
69 this section, it shall be the duty of the county court or its repre-
70 sentative to serve notice upon the owner or owners of said land, as
71 provided by law, notifying such owner or owners that the road is
72 to be located upon their land under the authority of this section.
73 Any person who shall obstruct said road while in process of con-
74 struction, or repair, or interfere with the engineer or other per-
75 sons in charge of said work or construction, their agents or em-
76 ployees, shall be guilty of a misdemeanor and upon conviction
77 thereof shall be fined not to exceed fifty dollars, and may be im-

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78 prisoned not to exceed one month, or both, in the discretion of
79 the court.

80 In any proceeding authorized by this section, the revenues ap-
81 plicable to the payment of any damages assessed shall be deemed
82 sufficient security, and to have been pledged for the payment
83 thereof.

Sec. 146. When it is necessary to build or repair a bridge on any
2 county-district road, or to purchase any existing toll bridge on
3 such road within any county, or across the boundary thereof, the
4 county court of the county may contract for the same, or any
5 part thereof on such terms as may be agreed upon and take bond
6 and security from the contractors in the sum of fifty per cent.
7 of the amount of such contract, out of the county treasury or out
8 of funds of the district or districts in which said improvement
9 is located, or by issuing bonds or other evidence of debt for the
10 amount as may be agreed upon and to this end they shall appoint
11 a competent engineer to make a thorough investigation and esti-
12 mate of the cost of such improvement. Upon receiving the esti-
13 mate of cost, the court, being satisfied with the correctness of same
14 and the necessity and importance of such improvement, may ad-
15 vertise for and receive proposals and make such other order in the
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16 premises from time to time as shall be necessary and proper.

Sec. 147. When it becomes necessary to build or repair any
2 bridge across any stream on a county-district road on the line
3 between two counties, or to keep in repair any county-district
4 road or roads between two counties, or along the boundary lines
5 thereof, the county courts of such counties may enter into such
6 agreement therefor, as to them shall seem best but if they disa-
7 gree in relation thereto, it shall be the duty of the county court
8 of each county to appoint two special commissioners, who, to-
9 gether with the county engineer of each county, shall meet and
10 arrange the matter, and if they should disagree, or if the court
11 of any county, upon being required so to do, shall fail to appoint
12 commissioners, or if either court shall fail in any respect to fulfill
13 its part of the agreement with respect to the work, the remedy
14 by mandamus shall lie before the circuit court of the county
15 whose county court is complained of on behalf of the county
16 court of the other county, and the circuit court shall compel the
17 county court complained of, to do what ought to be done in the
18 matter.

Sec. 148. If the county courts shall determine to make such
2 improvements, they shall have prepared plans and specifications

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3 of such work, and shall advertise for bids as provided in section
4of this act in each of the counties, and the contract

5 shall be awarded to the lowest responsible bidder who shall furnish
6 satisfactory security to be approved by said county courts and said
7 county courts voting separately shall approve the plans and speci-
8 fications, and shall jointly award the contract.

9 The commissioners of said county courts with the county road
10 engineer of each of the counties, shall constitute a joint commit-
11 tee and such joint committee shall receive the bids at the time
12 and place specified in the advertisement and shall open and pub-
13 licly announce the items comprising each bid according to the pro-
14 visions of section of this act, and the members of the
15 committee from each county shall forthwith report such bids to
16 their respective county courts for action thereon.

Sec. 149. The contract for such work shall specify such share
2 or portion of the costs thereof as is to be borne and paid by each
3 county court, and each county court shall be severally liable for
4 such share or proportion.

Sec. 150. After the completion of the work, the improvement
2 so made shall be maintained by the county court or courts or
3 other authorities of the counties or other political divisions join-
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4 ing in the improvement, which shall bear and pay the same share
5 and cost of maintenance and repair that they severally bore
6 toward the cost of improvement.

Sec. 151. It shall be the duty of the clerk of the county court
2 to keep on convenient file or in books prepared for such purpose,
3 a complete record of all titles to rights of ways, all maps, plats and
4 surveys, and all discontinuances of county-district roads within
5 the county, which are now, or may hereafter be reported to the
6 county court of the county.

Sec. 152. Any person or persons who may desire to do so,
2 with the permission of the State Road Commission as to state
3 roads, and the county court as to county-district roads, may build
4 a sidewalk, composed of plank, gravel, concrete or other suitable
5 material, along the side of any public road in this state; *provided*,
6 that the said walk does not exceed thirty-six inches in width and
7 that the construction and repairing of the same and the use
8 thereof shall be without expense of any kind to the public or to
9 any person who may want to use the same; and, *provided further*,
10 that all persons who may desire, be permitted to use the same
11 and that said sidewalk does not in any way interfere with the

12 traveling public on any public road; *provided, further, that if it*
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13 is desired to build any such walk in a city or corporate town, the
14 consent of the council of such city or town shall be obtained be-
15 fore such walk is built.

Sec. 153. Any person or persons who shall in any manner
2 destroy, take up, or in any way injure any sidewalk already con-
3 structed, or that may be hereafter be constructed according to
4 the provisions of the foregoing section, and shall fail to repair
5 the same, shall be deemed guilty of a misdemeanor, and on con-
6 viction thereof, shall be fined not less than five nor more than
7 fifty dollars.

Sec. 154. Nothing contained in this act shall be construed to
2 take from the jurisdiction, charge or control of the council, trus-
3 tees or other authority of any incorporated city, town or village,
4 so much of any road, bridge, landing or wharf, or any other thing,
5 as by the laws now in force, is exclusively under such jurisdiction,
6 charge or control, and authority is hereby given to such cities,
7 towns and villages to make and enforce by by-law, resolution,
8 ordinance or other appropriate order, rules and regulations gov-
9 erning the streets and alleys within their respective borders and
10 the traffic thereon; *provided, however, that where any street or*
11 alley in such municipality constitutes a connecting link in the
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12 system of state roads and highways, the load limit shall be in
13 conformity with that prescribed on state roads and highways.

Bids and Contracts.

Sec. 155. All bids for work to be let by contract under the au-
2 thority of the county court, under the provisions of this act,
3 whether for construction or maintenance, shall be received at the
4 court house of the county in which such road is to be constructed
5 and maintained at the time specified in the advertisements and
6 shall be opened only in open court and the amount and items
7 comprising each bid shall be publicly announced and the contract,
8 if let, shall be let to the lowest responsible bidder who shall give
9 bond with satisfactory security in an amount equal to fifty per cent
10 of the amount of such contract, conditioned for its faithful per-
11 formance.

12 After such bids have been opened, as herein provided, it shall
13 be the duty of the county court or other tribunal acting in lieu

14 thereof, to publish in some newspaper published in the county,
15 and if there be no paper published in the county, then in some
16 newspaper of general circulation therein, which publication shall
17 be made in the first issue of such newspaper after the bids are
18 opened, the names of all persons bidding on such contract, to-

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19-gether with the itemized amount of their respective bids, desig-
20 nating the person to whom such contract was awarded, if awarded,
21 together with the amount of his bid.

22 Any person who shall open any of the bids, at any other time
23 or place than herein provided, or shall make known the name
24 of the bidder, or the amount of his bid, otherwise than herein
25 provided, shall be guilty of a misdemeanor, and fined not less
26 than fifty nor more than two hundred dollars, and be imprisoned
27 in the county jail not less than one nor more than six months.
28 And any member of the county court or other tribunal acting in
29 lieu thereof, who shall violate the provisions of this act, shall
30 be deemed guilty of misconduct in office, and shall forfeit his
31 office, and in addition thereto shall be guilty of a misdemeanor
32 and upon conviction thereof shall be fined not less than fifty nor
33 more than two hundred dollars and imprisoned in the county
34-35 jail not to exceed six months.

36 The county court may reserve from payment not more than
37 twenty per cent of the amount accruing on said contract until
38 the completion of said work and the approval thereof.

39 The court may reject any and all bids and may thereafter have
40 the work done in any other manner that may seem advisable. In
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41 the event there shall be two bids of the same amount for any
42 section of road or any other improvement thereon, the bid of the
43 person owning the greatest amount of frontage or real estate
44 abutting on said road on the section where the improvement is to
45 be made shall be accepted. In the event that neither bidder owns
46 property abutting on said section to be improved, then in case of
47 such equal bids, the bidder owning property nearest the section
48 to be improved shall be given preference.

49 In the event the county court shall decide to have the work done
50 otherwise than by contract, then the work shall be done under the
51 direction of the county road engineer, or the court may appoint a
52 competent superintendent who under the direction of the county

53 road engineer shall have the supervision of the road or roads of
54 the district or section for which he was appointed. He shall
55 devote his entire time and attention to the work or so much
56 thereof as the court may direct, and he shall receive such compen-
57 sation for his services as may be determined by said court, or in
58 case the court does not have a county road engineer or for any
59 reason the court deems it advisable, where there is a county road
60 engineer, to appoint a special, competent district engineer to
61 take charge of any district, special or particular piece of work

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62 the court shall have the power so to do and fix the compensation
63 of said district engineer.

64 All notices and advertisements for the letting to contract of
65 county-district roads or any part thereof, under the provisions
66 of this act, whether for construction or maintenance, or for
67 the purposes of any supplies, equipment or material, shall, unless
68 otherwise provided, be published for at least four consecutive
69 weeks preceding the date of the letting of said contract, at least
70 once each week in two newspapers of general circulation and dif-
71 ferent politics, if there be such, within the county; if not, then
72 in one paper of general circulation therein.

73 No such contract shall be let to any person, association or per-
74 sons, company or corporation, who or which, is connected directly,
75 indirectly or otherwise, with any combination in the form of an
76 unlawful trust in restraint of trade, or who, or which enters into
77 any understanding, directly or indirectly, to limit in any manner
78 competition in bidding upon the construction of any road or bridge,
79 or for furnishing any materials used thereon and entering therein.
80 Any such combination or unlawful trust is hereby prohibited;
81 any person, association of persons, company or corporation enter-
82 ing into, or being a part of any such combination or unlawful

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83 trust, shall be guilty of a misdemeanor, and, upon conviction
84 thereof, shall be fined not exceeding one thousand dollars; and
85 every person, county or state officer or any employee of any county
86 of the state, including the officers or members of any corporation,
87 who shall be engaged in any way in promoting any such combina-
88 tion or unlawful trust or in aiding or abetting the same, or know-
89 ingly committing any acts in pursuance thereof, in addition to
90 being subject to the fine aforesaid, may in the discretion of the

91 court, be imprisoned not exceeding six months.

Sec. 156. Any person, firm or corporation offering for sale
2 or selling any paints, metal or metal culverts, fence or fencing or
3 any other materials or supplies for use upon or in the construction
4 of any road or bridge or part thereof of any county, city or town
5 within the state, shall furnish therewith a certificate of its purity
6 showing its chemical constituents and the percentage of impurities
7 contained therein. Any person, firm, or corporation making or
8 furnishing a false certificate shall be guilty of perjury and upon
9 conviction shall be fined not less than twenty-five dollars nor more
10 than two hundred dollars, and may be imprisoned not less than
11 one month nor more than twelve months and any contract made
12 by reason of any false statement or representation may be can-

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13 celed in the court.

Sec. 157. All claims of any contractor or contractors or oth-
2 ers, which may under the provisions of this act be due to such con-
3 tractor or contractors or other persons as to county-district roads,
4 shall when certified by the county road engineer, be presented to
5 the county court at the proper session thereof and if by them found
6 correct, shall, upon the order of warrant of said court, signed by
7 the president and clerk thereof, be paid by the sheriff; *provided*,
8 that it shall be the duty of the said road engineer to furnish the
9 county court at such time as he may be directed by them so to do
10 with a certified statement showing the amount of each claim so due
11 each contractor or contractors; except that in contracts for the
12 construction of new roads, the payment shall be conditioned as
13 set out in the original contract therefor, with the privilege to the
14 court of reserving not more than twenty per cent. of payments on
15 all estimates until the work is completed; and *provided, further*,
16 that no county road engineer shall certify the claim of any such
17 contractor or contractors until upon examination, he shall find
18 that the provisions of the contract have been strictly complied
19 with.

Sec. 158. If it shall appear necessary to the engineer or other
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2 representative of the county court in charge to close a county-dis-
3 trict road, which is being constructed or repaired under this act,
4 so as to permit a proper completion of such work, he shall exe-
5 cute a notice in duplicate, stating the necessity for closing such

6 public road, and describing the portion to be closed; he shall
7 cause to be posted at each end of the portion to be closed a copy of
8 said notice and may have the same published in one or more news-
9 papers in the county one week and shall thereupon close the same
10 to the public travel by erecting suitable obstructions and posting
11 conspicuous notices. In the event such road is closed, the engi-
12 neer or other representative of the county court in charge shall di-
13 rect a detour by proper signs and guides or provide a new location
14 by the construction of a temporary road to be used by the travel-
15 ing public in lieu of the closed public road and may erect tempo-
16 rary bridges when necessary. For the purpose of locating and
17 constructing such temporary road and bridge, the engineer or other
18 representative of the county court in charge may enter upon the
19 land adjoining or near to the closed public road and may, with
20 the approval of the county court agree with the owner of such
21 lands, for the damages, if any, caused thereby; if the engineer or
22 other representative of the county court in charge is unable to

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23 agree with such owner for the amount of damages, if any, the
24 amount thereof shall be ascertained, determined and paid as pro-
25 vided in this act. When such road shall have been closed to the
26 public as provided herein, any person who disregards the obstruc-
27 tion and notice and drives or rides over the portion of the public
28 road so closed, shall be liable for the damages done to any sec-
29 tion or portion of the road being constructed, and shall be guilty
30 of a misdemeanor and upon conviction thereof may be fined not
31 less than five dollars nor more than fifty dollars.

Sec. 159. The county court, for the purpose of meeting and
2 taking care of the necessary charges and expenses which may be
3 incurred by the county road engineer or other representative of
4 the county court having any road work in charge during the re-
5 cess of the court, in performing the duties required of him under
6 the provisions of this act, may at any regular term of the court
7 set apart and appropriate out of the road fund of the county or
8 any magisterial district thereof, and not otherwise appropriated,
9 funds sufficient to pay said expenses. Said appropriation shall
10 be based on a written itemized estimate to be certified and fur-
11 nished to the county court by said engineer or other representa-
12 tive of the court having said work in charge.

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13 After the appropriation shall have been made as aforesaid the
14 said engineer, or other representative having said work in charge
15 shall certify to the clerk of the county court the amount each per-
16 son is entitled to receive by virtue of any work or labor performed
17 or materials furnished, and sign the same in his official capacity;
18 whereupon, the clerk shall have authority to issue an order pay-
19 able out of the proper fund to the person entitled thereto, which
20 order shall be paid as other orders issued by the clerk, payable out
21 of the several road funds of the county or district.

22 The clerk shall keep a record of all claims so issued, showing
23 the amount thereof, to whom issued, upon the authority of what
24 road official and for what purpose, and make report thereof to
25 the court at each of its regular sessions.

26 The clerk shall not issue orders or drafts in excess of the
27 amount of the money appropriated by the court for the particular
28 work mentioned in the estimates aforesaid.

29 It shall be the duty of the road engineer, or other representative
30 of the court having said work in charge, at each successive regular
31 session of the court, to make a report in writing, showing what
32 orders he has given authorizing the clerk to issue drafts or orders
33 as aforesaid, under the provisions of this act, to whom payable

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34 and for what services. The said report of the county clerk and
35 that of the road engineer, or other representative of the county
36 court shall be audited by said court, filed and recorded in its order
37 book, or appropriation record, or such other record as the court
38 may provide. Said county road engineer, or other representative
39 of the court having the said work in charge, is hereby prohibited
40 from expending money or issuing orders to the clerk, in excess
41 of the amount appropriated by the court for the purpose or pur-
42 poses aforesaid. If any county road engineer, or other repre-
43 sentative of the county court, or the clerk of said court, shall issue,
44 or cause to be issued, any order or orders herein authorized, in ex-
45 cess of said appropriation, or improperly issue any such orders, or
46 cause the same to be done, which are paid in the manner provided
47 by law, said county road engineer, or other representative, or the
48 clerk of said court, shall be liable for the same on his or their offi-
49 cial bond. Nothing herein contained shall be construed as author-
50 izing the payment to any road contractor or contractors, of any
51 sum which may be due to such contractor, or contractors, under

52 the terms or provisions of his contract, or under the provisions of
53 this act, until the estimate provided by such contract, or con-
54 tracts, and by law has been made and certified as in said
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55 contract, or the law is provided, and approved by the county court.
56 It shall be unlawful for the county road engineer or other repre-
57 sentative of the county court having said work in charge, to di-
58 rectly or indirectly, discount any of the claims or orders author-
59 ized under this section. Any one violating this section shall be
60 guilty of a misdemeanor, and upon conviction thereof shall be
61 fined not less than ten nor more than twenty-five dollars.

61-a It shall be the duty of the county to furnish to the county road
62 engineer, or other representative having said work in charge,
63 proper blank forms upon which to certify to the clerk of the court
64 the amounts which the several persons performing labor or fur-
65 nishing material by virtue of this section are entitled to receive.

Toll Roads and Bridges.

Sec. 160. When any joint stock company incorporated by
2 this state shall have been formed to construct a road or bridge
3 wholly or in part in any county, the county court of such county
4 may subscribe for, take, hold and dispose of stock in such company
5 under the regulations, and subject to the restrictions prescribed by
6 law.

Sec. 161. No tolls other than for maintenance of such road or
2 bridge shall be charged or collected for traveling upon any of the
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3 public roads, or over any of the public bridges of this state, except
4 those which are now being collected according to the laws of this
5 state.

Sec. 162. A collector of tolls on any turnpike authorized by
2 law to receive tolls, may refuse to allow any person, animal or
3 vehicle to pass on such road until the lawful toll is paid. If any
4 person, animal or vehicle pass a toll gate on such roads, or other
4 person, animal or vehicle pass a toll gate on such roads, or other
6 if any person misrepresent the distance he may have traveled on
7 such road, such person in possession of such animal or vehicle shall
8 be fined not exceeding twenty dollars, and the like penalty shall be
9 incurred when any person, animal or vehicle subject to toll is
10 passed through any private gate, bars or fence for the purpose of
11 evading the payment of toll. Whoever shall defraud or attempt to

12 defraud the company by evading or attempting to evade the pay-
13 ment of toll for crossing a bridge, or aid another to do so, shall
14 for every such offense, upon conviction, be fined ten dollars.

15 A gatekeeper on any toll bridge shall keep such money of small
16 denomination on hand, as may reasonably be required in the or-
17 dinary course of business, for making change for passengers, and
18 it is the duty of passengers to offer money for passage of a de-
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19 nomination as nearly as possible to the amount charged for such
20 passage. This section shall not apply to persons now having a
21 lawful right to pass on such roads without the payment of toll.

Sec. 163. On all turnpikes now owned wholly or in part by
2 individuals or corporations in this state tolls not exceeding the
3 following rates may be received in every section of five miles
4 which has been completed, towit: For a single horse, mare, geld-
5 ing, mule, jack or jennet, three cents; and for every horse, mare,
6 mule, jack or jenet in addition, one cent, if the same be not
7 hitched to any vehicle; for twenty sheep or hogs, five cents; and
8 for twenty cattle, ten cents, and so on in proportion for a greater
9 or less number; for a riding carriage, whether two or four wheeled,
10 if the road be a macadamized road or a brick road or some other
11 permanently improved road, ten cents; but if not macadamized or
12 not a brick road or other permanently improved road, five cents;
13 and for a cart or wagon, if the tires of the wheels are less than
14 four inches wide, three cents for each animal drawing it. For a
15 fractional part of a section, tolls may be received bearing the same
16 proportion to the tolls for a full section that the said fractional
17 part bears to such full section; *provided*, that when the toll from
18 the fractional part would be less than one cent, they may charge

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19 and receive one cent; *provided, further*, that all coaches, carriages,
20 vehicles and horses used by persons in going to and from divine
21 worship, funerals, and grist mills for the purpose of having grind-
22 ing done, shall be exempt from tolls.

Sec. 164. The said tolls may be demanded and collected of
2 every person passing the toll gate, whether he shall have traveled
3 the whole or only a part of the section or fractional part pro-
4 vided, that the said toll road or turnpike shall be made so as to
5 conform to the following specifications: All roads or turnpikes
6 shall have a smooth road bed of not less than fifteen feet in width

7 exclusive of ditches, and shall be well side-ditched and drained.
8 All cross-drains shall be under-drained or riprapped when neces-
9 sary. All running streams requiring bridges of fifty feet in
10 length or less, and such others as the county court of the county
11 may direct, shall have a bridge or culvert across the same suffi-
12 ciently strong and sufficiently wide to insure safe passage to all
13 kinds of vehicles; *provided further*, that no toll shall be collected
14 unless said toll road or turnpike be constructed in accordance with
15 this section, but no such tolls shall hereafter be imposed and col-
16 lected in Ohio county, Jefferson county or in Brooke county; and
17 *provided, further*, that any citizen of this state may bring an ac-
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18 tion or suit to prevent the unlawful collection of such tolls.

Sec. 165. Whenever the collection of tolls for traveling over
2 or upon any toll road or turnpike has been abandoned by any
3 county, person, company or corporation, or is prevented by law
4 or by final order of any court having competent jurisdiction, or
5 whenever any of the county-district roads are improved under the
6 provision of section of this act, it shall be the duty of
7 the county court of the county wherein such road or turnpike, or
8 any part thereof, is located, to keep the same in good repair, and
9 to pay for the work and all expenses incident thereto out of the
10 county road fund.

Sec. 166. Whenever complaint in writing on oath shall be
2 made to the county road engineer of the county in which there
3 shall be, in whole or in part, any toll bridge, belonging to any
4 person or corporation, representing that such toll bridge has be-
5 come, or is unsafe for public use, the county road engineer shall
6 forthwith cause to be made a careful and thorough examination
7 of such toll bridge, and if upon examination thereof, he shall be
8 of the opinion that the same has, from any cause, become danger-
9 ous or unsafe for public use, he shall thereupon give immediate
10 notice to the owner of such toll bridge or to any agent of such

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11 owner acting as the agent, in respect to such bridge, that he has
12 on complaint made, carefully and thoroughly examined the bridge
13 and found it to be unsafe for public use. Such owner shall there-
14 upon immediately commence repairing the same and cause such
15 repairs to be made within one week from the day of such notice
16 given, or within such reasonable time thereafter as may be neces-

17 sary to thoroughly repair the bridge, so as to make it in all re-
 18 spects safe and convenient for public use. For neglect to take
 19 proper and effective measures to repair such bridge, its owner shall
 20 forfeit fifty dollars and shall not demand or receive any toll for
 21 using the same until it shall be fully repaired. The county road
 22 engineer shall cause such repairs to be made and the owners of
 23 the bridge shall be liable for the expense thereof and for the ser-
 24 vice of a foreman at three dollars per day, and upon the neglect
 25 or refusal to pay the same upon presentation of an account thereof,
 26 the county road engineer may recover the same by action in the
 27 name of the county.

Sec. 167. Any person desiring the privilege of erecting a
 2 wharf at or on any public landing, may present a petition to the
 3 court of such county for such privilege; but notice of the petition
 4 or his intention to present the same, must be posted at the front
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5 door of the court house and at three public places in the district
 6 in which it is proposed to erect such wharf, three weeks at least
 7 before the petition is acted upon. The said court upon petition
 8 and notice, may grant such privilege upon such conditions and
 9 limitations, and fix such rates and charges for wharfage as it see
 10 fit. But it may at any time afterwards, upon ten days' notice to
 11 the owner of such wharf, or his tenants, revoke such privilege or
 12 alter such conditions or limitations, or regulate the rates of
 13 charges.

Sec. 168. Any person owning land upon a water course may
 2 erect a wharf on the same, or a pier or bulkhead in such water
 3 course, apposite his land, so that the navigation be not obstructed
 4 thereby, and so that such wharf, pier or bulkhead, shall not oth-
 5 erwise injure the rights of any person. But the county court of
 6 the county in which such wharf, pier or bulkhead shall be, after
 7 causing ten days' notice to be given to the owner thereof of its in-
 8 tention to consider the subject, if it be satisfied that such wharf,
 9 pier or bulkhead obstructs the navigation of the water course,
 10 or so encroaches on any public landing as to prevent the free use
 11 thereof, may abate the same.

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General Provisions.

Sec. 169. So far as any road, bridge, or public landing be-
 2 longs to or is under the care or control of a county, it shall be the

3 duty of the county court to cause the same to be kept in good re-
4 pair and condition. And when any county acquires the interest
5 of the state, or any other stockholder in any road, bridge or public
6 landing, under either of the two preceding sections, the county
7 court of such county shall have all powers, rights and privileges,
8 perform all the duties and be subject to the same liabilities that
9 were vested in, held, exercised or required to be performed by or
10 imposed upon the state or other former stockholders therein.

Sec. 170. Any person who sustains an injury to his person or
2 property by reason of any county-district road or bridge, street,
3 sidewalk or alley in any incorporated city, town or village, being
4 out of repair, may recover all damages sustained by him by rea-
5 son of such injury, in an action on the case in any court of com-
6 petent jurisdiction, against the county court, city, town or vil-
7 lage in which such road, bridge, street, sidewalk or alley may be,
8 except that such city, town or village shall not be subject to such
9 action unless it is required by its charter to keep the road, bridge,
10 street, sidewalk or alley therein at the place where such injury
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11 is sustained, in repair. If it is not so required, the action and
12 remedy shall be against the county court. When judgment is ob-
13 tained against the county court, such court shall levy upon the
14 taxable property of the district in which such injury is sustained,
15 a sufficient sum to pay such judgment with interest and costs, and
16 the cost of collecting the same, and when it is obtained against a
17 city, town or village, the proper corporate authorities thereof shall
18 lay such levy on the property subject to taxation in such city, town
19 or village. And in case of a failure by either so to do, or to pay
20 the judgment as required by law, the circuit court of the county
21 shall compel the laying of such levy, or the payment of such judg-
22 ment, as required by law, the circuit court of the county shall
23 compel the laying of such levy, or the payment of such judgment,
24 or both, by mandamus. The summons in such case against the
25 county, shall issue against such court and be served as provided
26 by chapter thirty-nine of the code of West Virginia, and if the
27 case be against a city, town or village, it shall issue against the
28 same by its corporate name and be served, on the mayor, re-
29 corder, treasurer or two councilmen.

Sec. 171. Any person who may be injured as aforesaid by
2 reason of a turnpike, road or bridge, belonging to any company or

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3 person, or to any county in its corporate capacity, being out of re-
4 pair, may recover all damages sustained by him by reason of such
5 injury, in the manner prescribed in the preceding section, against
6 such company, person or county, or against the lessee for the time
7 being of any such road or bridge. Any judgment against a city,
8 town or village or county under this section may be enforced
9 by the circuit court by writ of mandamus. The enactment of
10 this section shall not affect any action or suit now pending for
11 any such company as is mentioned herein, but the same may be
12 prosecuted and judgment enforced with like effect, as if this sec-
13 tion had not been enacted.

Sec. 172. The county court of a county may upon petition,
2 permit gates to be erected across any county-district road therein,
3 or cause any gate erected across a county-district road to be re-
4 moved, but notice of every petition for that purpose must be
5 first posted at the front door of the court house, and at three
6 public places in the vicinity of the gate proposed to be erected
7 or removed, at least three weeks before the meeting at which such
8 order is made.

Sec. 173. The owner or occupier of every dam shall, as far
2 as the road passes over the same, keep such dam in good order
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3 at least fourteen feet wide at the top; and also keep in good
4 order a bridge of like width over the pier-head, flood gates or
5 any waste cut through or around the dam; and shall erect and
6 keep in good order, a strong railing on both sides of such bridge
7 or dam. If he fails to comply with this section he shall pay
8 a fine for every twenty-four hours failure, of two dollars, but
9 the fines shall not in any one prosecution exceed fifty dollars;
10 and where a mill dam is carried away or destroyed, the owner
11 or occupier thereof shall not henceforth be subject to such fine
12 until one month after the mill shall have been put in operation.
13 And every owner of a dam hereafter built, which dam, by the
14 backing of water or otherwise, abstructs any public road, or
15 if any race or ditch connected therewith shall materially obstruct
16 any such road, shall, whenever it may be necessary for the safe
17 and convenient crossing of the same, or the pond created thereby,
18 build and keep in repair over and across the said dam, pond,
19 race or ditch, a bridge of like kind and description as herein-

20 before specified, and for the failure to do so every such owner
21 or occupier shall be fined as hereinbefore provided.

Sec. 174.

Sec. 175. Any person desiring the privilege of erecting a
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2 wharf at or on any public landing, may present a petition to
3 the court of such county for such privilege; but notice of the
4 petition, or his intention to present the same, must be posted
5 at the front door of the court house and at three public places
6 in the district in which it is proposed to erect such wharf three
7 weeks at least before the petition is acted upon. The said court
8 upon petition and notice, may grant such privilege upon such
9 conditions and limitations, and fix such rates and charges for
10 wharfage as it deems fit. But it may at any time afterwards,
11 upon ten days notice to the owner of such wharf or his tenants,
12 revoke such privilege or alter such conditions or limitations, or
13 regulate the rates of charges.

Sec. 176. The county court of any county in the state of
2 West Virginia, through which the Shenandoah river runs, may
3 establish on and across said river not more than three free ferries;
4 and such ferries shall be provided with sufficient landings and
5 boats, and such attendants of said boats as may be necessary to
6 accommodate public travel. The court shall pay all expenses
7 of establishing such ferries, providing and maintaining the neces-
8 sary boats and the necessary attendants thereof out of the county
9 treasury.

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Sec. 177. Delinquent lists of taxes uncollected under the pro-
2 visions of this act shall be returned and disposed of as school and
3 other district levies are returned and disposed of according to
4 law.

Sec. 178. It shall be the duty of the owner or occupant of
2 land situated along the public road, to remove all obstructions
3 within the bounds of the road which have been placed there either
4 by himself or by his consent.

• Sec. 179. It shall be the duty of all telephone, telegraph,
2 electric railway or other electrical companies, to remove and re-
3 set telephone, telegraph, trolley and other poles and the wires
4 connected therewith when the same constitute obstructions to the
5 use of the public road by the traveling public.

Sec. 180. It shall be the duty of all pipe line companies whose lines have been laid across or along any public road in this state for the purpose of transporting any natural gas, oils, or water or any other substance, to fill up all excavations made thereby and to make the public road in all respects as good as is was before the excavation was made and to keep the same in like good condition. If such obstructions, poles or wires are not removed, or such poles with wires re-set, or such excavations are

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not properly filled and maintained, within ten days after the serving of a notice, by the county road engineer personally or by mail upon such owner or occupant or upon such company at its principal place of business or an agent of the company within the county, requesting the same to be done, the county road engineer shall cause such obstructions to be removed and such poles and wires to be re-set and such repairs on the excavation to be made as may be necessary to place the same in its original condition. The expenses thereby incurred shall be paid in the first instance, out of the moneys levied and collected and available therefor and the amount thereof shall be charged against such owner, occupant or company and levied and collected, as provided in section one hundred and sixty-four of this chapter.

Sec. 181. It shall be unlawful for the county court of any county in this state, or any other tribunal, acting in lieu thereof, to grant any permit or franchise to any corporation, individual or person in this state, or to any foreign corporation, the right to operate or maintain any gas main line or lines along any of the public roads or highways in this state with a diameter exceeding four inches; *provided, however*, that this act shall not prevent any oil company or other persons transporting oil or

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gasoline along the public highways of this state, and that nothing herein contained shall be construed to give such company an unlimited franchise without paying to the land owners through whose lands such road runs or passes, the usual and customary right of way paid therefor, or to be paid to the land owners for such right of way; such grant, if made, shall only be construed to give such company or person the right to use the easement in said public road and not to best any right of eminent domain therein. The purpose of this act being to secure to the people

18 of this state, the free and unlimited use of the public roads
19 without let or hindrance or obstruction from any one.

Sec. 182. The county road engineer or supervisor shall assess
2 the cost of removing obstructions and removing and resetting
3 poles and wires pursuant to sections and
4 against the owner, occupant or company neglecting to perform
5 their duty imposed by the sections above referred to.

6 Such county road engineer or supervisor shall serve person-
7 ally or by mail, upon such owner, occupant or company, a writ-
8 ten notice stating that, on the time and place specified therein,
9 he or his agent will assess such costs against the owner, occupant
10 or company neglecting to perform such duty. Such notice shall

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11 be served at least ten days previous to the time specified therein.
12 If directed against a company, it may be served upon it at its
13 principal place of business or upon any agent of the company
14 within the district or county. At the time and place so specified
15 he shall hear the parties interested and shall thereupon complete
16 the assessment, stating therein the names of the owner, occupant
17 or company, the amount assessed against him or it and shall
18 return such assessment to the county court of the county who
19 shall cause the amount stated therein to be levied against the
20 owner, occupant or company, and any uncollected tax shall be
21 a lien upon the property affected. The amount so levied shall
22 be so collected as other taxes levied by such court, and shall be
23 paid into the district road fund to be applied in re-imbursing
24 the fund from which such cost was defrayed.

Sec. 183. The circuit court of the county in which is any
2 road, county-district or any portion thereof, taken for railroad
3 purposes by any other corporation than a street railway company,
4 unless such road or portion thereof is in an incorporated city,
5 town or village which has the control of all its roads, streets
6 and alleys, or has been constructed since such railroad, may
7 upon petition of any party interested, serve upon said company
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8 as any other civil process, appoint a committee of three to inquire
9 whether such public road or portion thereof is unsafe for travel
10 by reason of such railroad, or whether an alteration of such
11 public road or the construction of a new public road is thereby
12 rendered necessary for the public safety and convenience; and

13 such committee shall view the ground where such danger is
 14 complained of and shall also give written notice both to the par-
 15 ties making the complaint and to the parties complained of, or
 16 their agents in the county, of an opportunity to be heard, not
 17 less than fifteen days after the service upon such parties of a
 18 copy of such notice, and after the hearing shall report thereon
 19 to said court which may make any proper order in the premises;
 20 and if it shall order any such alteration or construction, and
 21 said company shall neglect or refuse to comply with such order,
 22 the county court of the county shall alter or construct such
 23 public road and may recover the expense thereof from said com-
 24 pany.

Sec. 184. The county road engineer may, by an order in
 2 writing authorize the owners of property adjoining the county-
 3 district roads, at their own expense to locate and plant shade
 4 trees, fruit trees or nut-bearing trees suitable for shade along

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5 such roads. Such trees not to be planted within less than fif-
 6 teen feet of the center of the road. Such trees shall be planted
 7 at least sixty feet apart and according to plans and regulations
 8 sent out by the state road commission.

Sec. 185. The county road engineer shall have the full care
 2 and control of all such public shade trees in his county, except
 3 within the limits of an incorporated city, town or village, and
 4 shall prosecute complaints for malicious injury to, or unlawful
 5 acts concerning public shade trees.

Sec. 186. The county road engineer may authorize the owner
 2 or occupant of lands to construct and maintain watering troughs
 3 beside the public county-district roads to be supplied with fresh
 4 water, the surface of which shall be at least two feet above the
 5 level of the ground and easily accessible for horses with vehicles,
 6 The county road engineer shall, annually, give a written order
 7 upon the county court of the county for two dollars to be paid
 8 out of the road fund of the district, to such owner or occupant
 9 for maintaining such watering trough and keeping the same
 10 supplied with fresh water.

Sec. 187. The owner or tenant of land fronting on any state
 2 road shall construct and keep in repair, all approaches or drive-
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2-a ways to and from the same, under the direction of the State

House Bill No. 433

(BY MR. HINER.)

[Introduced January 25, 1921; referred to the Committee on the Judiciary.]

A BILL to amend and re-enact section twelve of chapter eighty-three of the acts of the legislature of one thousand nine hundred and fifteen relating to the salaries of county officers.

Be it enacted by the Legislature of West Virginia:

That section twelve be amended and re-enacted so as to read as follows:

Section 12. The annual compensation of the sheriff in each		
2 county shall be as follows:		
3 Barbour county		\$2,500
4 Berkeley county		3,000
5 Boone county		2,000
6 Braxton county		2,800
7 Brooke county		2,000
8 Cabell county		4,000
9 Calhoun county		1,600
10 Clay county		1,700
11 Doddridge county		2,400
12 Fayette county		4,000
13 Gilmer county		2,200
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14 Grant county		1,800
15 Greenbrier county		2,700
16 Hampshire county		2,000
17 Hancock county		2,000
18 Hardy county		1,600
19 Harrison county		4,500
20 Jackson county		2,500
21 Jefferson county		2,500
22 Kanawha county		5,000
23 Lewis county		3,000
24 Lincoln county		2,500
25 Logan county		3,500
26 Marion county		4,500
27 Marshall county		3,500
28 Mason county		2,500

29 Mercer county	3,800
30 Mineral county	2,200
31 Mingo county	3,500
32 Monongalia county	3,600
33 Monroe county	1,800
34 McDowell county	4,500
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35 Morgan county	1,500
36 Nicholas county	2,500
37 Ohio county	4,500
38 Pendleton county	1,600
39 Pleasants county	1,800
40 Pocahontas county	2,750
41 Preston county	3,000
42 Putnam county	1,800
43 Raleigh county	3,000
44 Randolph county	3,000
45 Ritchie county	2,750
46 Roane county	2,000
47 Summers county	2,000
48 Taylor county	2,000
49 Tucker county	2,200
50 Tyler county	2,400
51 Upshur county	2,500
52 Wayne county	2,400
53 Webster county	2,200
54 Wetzel county	3,000
55 Wirt county	1,650
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77 Fayette county	3,000
78 Gilmer county	1,800
79 Greenbrier county	2,500
80 Hampshire county	1,200
81 Hancock county	1,800
82 Harrison county	4,000
83 Jackson county	2,000
84 Jefferson county	2,000
85 Kanawha county	4,500
86 Lewis county	2,500
87 Lincoln county	2,000
88 Logan county	2,500

89	Marion county	4,000
90	Marshall county	2,750
91	Mason county	2,500
92	McDowell county	4,000
93	Mercer county	2,700
94	Mingo county	3,000
95	Monongalia county	2,750
96	Monroe county	1,500
97	Morgan county	1,500
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98	Nicholas county	2,250
99	Ohio county	4,000
100	Pleasants county	1,800
101	Pocahontas county	1,800
102	Praeston county	2,300
103	Putnam county	1,800
104	Raleigh county	2,400
105	Randolph county	2,500
106	Ritchie county	2,500
107	Roane county	2,000
108	Summers county	1,600
109	Taylor county	2,000
110	Tucker county	1,900
111	Tyler county	2,000
112	Upshur county	1,800
113	Wayne county	2,000
113	Webster county	2,000
114	Wetzel county	2,200
115	Wirt county	1,200
116	Wood county	3,000
117	Wyoming county	1,500

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- 56 Wood county 4,000
 57 Wyoming county 2,100
 58 Except for the year one thousand nine hundred and seventeen,
 59 the compensation of sheriff shall be three-fourths of the amount
 60 fixed by this section, one-fourth to be paid during the first six
 61 months, and the remaining two-fourths during the last six
 62 months, the retiring sheriff being required to act as treasurer
 63 until July first, one thousand nine hundred and seventeen, and

64 perform all the duties now required by law and receive as com-
 65 pensation therefor the commission provided by law.

66 The annual compensation of the clerk of the county court in
 67 each county shall be as follows:

68 Barbour county	\$1,800
69 Berkeley county	2,000
70 Boone county	1,800
71 Braxton county	2,200
72 Brooke county	1,900
73 Cabell county	4,000
74 Calhoun county	1,200
75 Clay county	1,500
76 Doddridge county	1,800

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118 The annual compensation of the clerk of the circuit court (or
 119 clerk of the circuit court and criminal or intermediate courts),
 120 in each county shall be as follows:

121 Barbour county	\$1,650
122 Berkeley county	1,500
123 Boone county	1,500
124 Braxton county	2,000
125 Brooke county	1,200
126 Cabell county	3,000
127 Calhoun county	800
128 Clay county	1,200
129 Doddridge county	1,500
130 Fayette county	3,000
131 Gilmer county	1,500
132 Greenbrier county	1,600
133 Hampshire county	1,000
134 Hancock county	1,200
135 Harrison county	4,000
136 Jackson county	1,500
137 Jefferson county	1,400
138 Kanawha county	4,500

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139 Lewis county	2,200
140 Lincoln county	1,500
141 Logan county	2,000
142 Marion county	4,000
143 Marshall county	2,250

144	Mason county	1,800
145	McDowell county	4,000
146	Mercer county	2,750
147	Mingo county	3,000
148	Monongalia county	2,250
149	Monroe county	1,200
150	Morgan county	800
151	Nicholas county	2,000
152	Ohio county	3,500
153	Pleasants county	1,350
154	Pocahontas county	1,500
155	Preston county	2,000
156	Putnam county	1,400
157	Raleigh county	2,000
158	Randolph county	2,250
159	Ritchie county	1,800
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160	Roane county	1,700
161	Summers county	1,500
162	Taylor county	1,800
163	Tucker county	1,600
164	Tyler county	1,800
165	Upshur county	1,800
166	Wayne county	1,800
167	Webster county	1,800
168	Wetzel county	2,000
169	Wirt county	900
170	Wood county	3,000
171	Wyoming county	1,500
172	The annual compensation of the prosecuting attorney in each	
173	county shall be as follows:	
174	Barbour county	\$1,000
175	Berkeley county	1,200
176	Boone county	1,000
177	Braxton county ..	1,200
178	Brooke county	1,200
179	Cabell county	3,000
180	Calhoun county	800
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181	Clay county	1,000

182	Doddridge county	1,000
183	Fayette county	3,000
184	Gilmer county	1,000
185	Grant county	600
186	Greenbrier county	1,400
187	Hampshire county	800
188	Hancock county	1,200
189	Hardy county	600
190	Harrison county	3,500
191	Jackson county	1,000
192	Jefferson county	1,200
193	Kanawha county	4,800
194	Lewis county	1,200
195	Lincoln county	1,500
196	Logan county	1,800
197	Marion county	3,500
198	Marshall county	1,800
199	Mason county	2,000
200	McDowell county	3,500
201	Mercer county	2,500
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202	Mineral county	1,200
203	Mingo county	2,750
204	Monongalia county	2,250
205	Monroe county	600
206	Morgan county	800
207	Nicholas county	2,000
208	Ohio county	3,500
209	Pendleton county	1,000
210	Pleasants county	600
211	Pocahontas county	1,200
212	Preston county	1,800
213	Putnam county	1,000
214	Raleigh county	2,400
215	Randolph county	1,800
216	Ritchie county	750
217	Roane county	1,200
218	Summers county	1,400
219	Taylor county	1,200
220	Tucker county	1,200
221	Tyler county	1,200

222 Upshur county	1,200
223 Wayne county	1,500
224 Webster county	1,200
225 Wetzel county	1,500
226 Wirt county	500
227 Wood county	2,000
228 Wyoming county	1,200
229 The annual compensation of the clerks of the courts in the	
230 counties where both the office of clerk and the county court and	
231 clerk of the circuit court are held by the same person, shall be	
232 as follows:	
233 Hardy county	\$1,800
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234 Grant county	1,900
235 Mineral county	2,600
236 Pendleton county	1,900
237 And said salaries shall be in lieu of all fees, costs, penalties,	
238 percentages, allowances, and all other perquisites, of whatever	
239 kind which any of the officers herein named may now or here-	
240 after collect or receive, except as hereinafter provided.	

House Bill No. 266

(BY MR. STATHERS, by request.)

[Introduced January 21, 1921; referred to the Committee on Game and Fish.]

A BILL to amend and re-enact chapter sixty-two of the code of West Virginia, of one thousand nine hundred and sixteen, as last amended and re-enacted by chapter fifty-two of the acts of the legislature of West Virginia, of one thousand nine hundred and nineteen, regular session, all relating to the protection and preservation of certain animals, birds and fishes, forests and streams.

Be it enacted by the Legislature of West Virginia:

That chapter sixty-two of the code of West Virginia, of one thousand nine hundred and sixteen, as last amended and re-enacted by chapter fifty-two of the acts of the legislature of West Virginia, of one thousand nine hundred and nineteen, regular session, be amended and re-enacted so as to read as follows:

Section 1. (a) The game and fish commission of West Virginia, to be composed of three competent citizens of this state who shall be appointed by the governor, no two of whom shall be residents of the same senatorial district, is hereby created. Upon the passage of this act the governor shall appoint one member thereof for the term of three years from the first day of June, one thousand nine hundred and twenty-one, one mem-

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ber thereof for the term of two years from said date, and one member thereof for the term of one year from said date, and thereafter the governor shall each year, appoint a member for the full term of three years from said date, except where appointment is made to fill a vacancy. A vacancy in said commission shall be filled by appointment by the governor for the unexpired term. All appointments so made shall be with the advice and consent of the senate, except where otherwise provided by law.

(b) The governor may remove any member for incompetency, neglect of duty, gross immorality or malfeasance in office.

(c) The commissioners shall receive no salary or other compensation for their services, but shall be allowed and paid their actual necessary traveling and other personal expenses incurred in the performance of their duties; *provided*, that in no case shall such total amount so allowed for traveling and other personal expenses exceed in any one year the sum of nine hundred dollars for all of said commissioners. No expense account shall be paid unless a statement of the items thereof together with the times of expenditure and the persons or person by whom expended shall be certified by at least two of the members of the

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commission to be a true statement of money actually expended, at the times designated, for traveling and other personal expenses in the performance of duty as such commissioner.

(d) The commission shall maintain an office at some place in the state to be designated by it and shall hold regular meetings at such office on the first Thursdays of January, April,

35 July and October, and may hold meetings at such times and
36 places in said state as it may deem necessary. Such special
37 meetings may be called either by the chairman or by any two
38 members, by giving reasonable notice thereof to each member.

39 (e) The commission shall have power and authority to ap-
40 point a chief game warden, and additional other competent men
41 who shall be designated game protectors, each of whom shall
42 hold office at the pleasure of the commission, and the commission
43 may, at its discretion, with or without cause, summarily remove
44 any person appointed by it and fill such vacancy so created by
45 removal. The commission shall fix the salary to be paid state
46 game warden and the compensation of said game protectors, but
47 said state game warden shall not be paid a yearly salary of more
48 than the sum of three thousand dollars, exclusive of his necessary
49 expenses. The commission may rent an office adequate for its

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50 purposes, furnish the same, secure necessary supplies for the
51 keeping of its records and the conduct of its business, and may
52 employ, with the right of removal as aforesaid, one person to act
53 as clerk at said office, at a salary of not more than two thousand
54 dollars a year.

55 (f) The commission shall, in addition to the duties herein-
56 after specifically prescribed, have entire charge, control and
57 supervision of the conservation, protection, propagation and
58 distribution of the fish, frogs, wild animals, and the wild birds
59 and fowl of the state; the conduct, control, operation and man-
60 agement of all state wild birds, wild fowl or wild game farms,
61 reserves and refuges, and fish hatcheries and reserves and refuges,
62 and all other fish, frog, wild game, wild bird and fowl plants and
63 places now or hereafter to be established in the state for the
64 propagation and protection of fish, frogs, wild game and wild
65 birds and fowl; supervise and direct the granting and the can-
66 cellation or revocation of all game and fish, hunting or other
67 licenses, provided by this chapter to be granted, and the payment,
68 collection and expenditure of all moneys derived from said
69 licenses, and otherwise collected or appropriated for the operation
70 of the game and fish department; supervise and direct and have
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71 charge of the enforcement of all laws enacted for the propagation,
72 preservation, conservation, protection and distribution, and the

73 pursuit, hunting, catching, capturing and killing of, or enacted
74 in relation to, the fish, the frogs, the wild animals, the wild birds,
75 and the wild fowl of the state; and do and perform all acts and
76 things expressly provided or implied to be done by the commis-
77 sion under the provisions of this act or by law.

78 (g) The commission shall keep records of all its acts and
79 doings in relation to its duties and it shall preserve the same at
80 its office, and shall make report to the governor on not later
81 than the 10th day of December of each year, or oftener if re-
82 quired by the governor, of the conduct of its affairs during said
83 current year, including a statement of receipts and disburse-
84 ments and such recommendations as the commission may desire
85 to make in relation to the matters within its duties and purposes.
86 The commission shall choose yearly at the first meeting held after
87 the thirty-first day of May, a chairman who shall be such for one
88 year from the said thirty-first day of May of each year, or until
89 his successor shall be elected and qualified in his stead.

90 (h) The commission shall keep its records and books in the
91 manner to be prescribed by the public accounting department of

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92 the state, and shall submit the same to said accounting depart-
93 ment for inspection at such time as said accounting department
94 may require.

95 (i) The commissioners shall each give bond in the sum of two
96 thousand dollars, and in case surety companies execute the same
97 the premiums therefor shall be paid out of the funds of the
98 commission, for the faithful performance and discharge of their
99 duties as commissioners, and the commissioners, state game
100 warden and the game protectors shall each sign and execute a
101 written oath of office in form to be prescribed by the attorney
102 general of this state before entering upon the performance of
103 their duties. The written oath of office may be given to the
104 state game warden and game protectors by any commissioner or
105 any other person authorized by law to give an oath, and all said
106 written obligations shall be returned to and filed with the com-
107 mission.

Sec. 2. (a) The state game warden and the game protectors
2 and all other officers of the state of West Virginia, while engaged
3 in the enforcement of the provisions of this act, shall be under the
4 supervision and direction of the commission. The state game

5 warden and the game protectors shall have full power and authority
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6 to execute and serve any warrant, notice or any process of law
7 issued under this act or any law enacted relating to the game, the
8 fish, the frogs, the wild birds and wild fowl, and the game animals
9 and forests, issued by any justice of the peace or by any court having
10 jurisdiction thereof, in the same manner and with the same power
11 and authority and to and with the same legal effect as any con-
12 stable or sheriff can serve or execute such warrant, notice or pro-
13 cess; may arrest on sight, without a warrant or other court process,
14 any person or persons detected by them in the violation of any of
15 the provisions of this act or of any law of this state relating to the
16 game, the fish, frogs, wild birds and fowl and the game animals
17 and the forests; and said state game warden and game protectors
18 under the supervision and direction of said commission, shall
19 do all things necessary or property to carry into effect the pro-
20 visions of this act.

21 (b) The sheriffs, deputy sheriffs and constables in the several
22 counties of the state shall be, within their respective jurisdiction,
23 game protectors, and in like manner the police officers of any city
24 shall be, within their jurisdiction, game protectors, each vested,
25 within his respective jurisdiction, with all the powers and authori-
26 ty of game protectors, but no oath shall be required of said

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27 sheriffs, deputy sheriffs, constables or police officers, and each
28 shall, when making any arrest or executing other court process
29 under the provisions of this chapter, make report of the same
30 to the commission.

31 (c) Any such officer shall, upon the arrest of any person while
32 violating any of the provisions of this act, have authority to
33 seize and hold, subject to the prosecution of the accused, any game,
34 fish or frog found on the accused and the result of such violation,
35 and any hunting paraphernalia or fishing paraphernalia used by
36 the accused while so engaged in such violation, and the game,
37 fish or frogs may be delivered to the nearest hospital for consump-
38 tion, and the seized hunting or fishing paraphernalia shall, in
39 case any fine imposed is not paid within five days, be sold, at
40 public auction, either on terms or for cash, after having been
41 first advertised for five days by posting hand bills containing notice
42 thereof in at least three places near the place of sale. The proceeds

43 therefrom shall first be applied to the payment of the fine, costs
44 and expense of the prosecution and sale, and the residue delivered
45 to the commission.

46 (d) The said game warden and game protectors, including
47 said sheriffs, deputy sheriffs, constables and police officers, while
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48 engaged in the enforcement of any of the provisions of this act,
49 shall have the power, in manner provided by law, to search and
50 examine any boat, vehicle, automobile, conveyance, express or rail-
51 road cars, fish box, fish baskets or creel, game bag or game coat, or
52 any other receptacle in which game birds, game animals or fish
53 or frogs could be packed, concealed or conveyed, whenever they
54 have reason to believe that they will thereby secure or discover
55 evidence of the violation of any provision of this act, and said
56 officers shall have, in manner provided by law, the same right to
57 execute a search warrant as is now conferred upon sheriffs in their
58 respective counties.

59 (e) The authority and powers and duties of said state game
60 warden and game protectors shall be state wide, and said state
61 game warden and game protectors shall, while engaged in the per-
62 formance of their duties, have the same right to carry upon their
63 person revolvers and other fire arms as sheriffs now have in their
64 respective counties.

65 (f) Any of the officers herein mentioned, whose duty it is to
66 enforce provisions of this act, shall have the same rights and pow-
67 ers as sheriffs have in their respective counties to summon aid in

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68 making arrests, seizures or executing any warrants, notices or
69 court process.

70 (g) The commission may cause complaints to be made and
71 proceedings to be instituted and prosecuted against any violators
72 under this chapter, without the sanction of the prosecuting at-
73 torney of the county wherein such proceedings are instituted, and
74 in all such cases no security for costs shall be required of the
75 commission. The commission may employ an attorney to repre-
76 sent it in any prosecution under this act, and in such case there
77 shall be taxed as costs, in case of conviction, the sum of ten dollars
78 in each case, in addition to the usual amount lawfully taxed, and
79 which ten dollars shall be for the benefit of and paid to said at-
80 torney as and for his compensation.

81 (h) The commission shall have the right to offer and pay,
82 in its discretion, rewards for information respecting the vio-
83 lation, or for the apprehension and conviction of any violators,
84 of any of the provisions of this act.

85 (i) Any person who hinders, obstructs or interferes with, or
86 attempts to hinder, obstruct or interfere with,, the game and fish
87 commission, or any member thereof, or the state game warden, or
88 any game protector, or any other officer named herein in the per-
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89 formance of his duties, shall be deemed guilty of a misdemeanor
90 and upon conviction shall be fined not less than fifty and not
91 more than two hundred dollars, or may be confined in jail not
92 more than six months, for each offense, or, in the discretion of the
93 court may be both fined and imprisoned within the limitations
94 aforesaid.

Sec. 3. The ownership of, and title to, all the fish, frogs, birds
2 and quadrupeds in the state of West Virginia, not held by private
3 ownership legally acquired, is hereby declared to be in the state
4 of West Virginia.

Sec. 4. (a) No person not a citizen of the United States of Am-
2 erica shall at any time hunt, pursue, kill or catch any wild game
3 animals, or wild game birds or wild game fowl in this state, or
4 have in his possession fire arms of any kind for such or any of
5 said purposes, or fish for, capture, catch or kill any fish, frogs or
6 turtles, in this state.

7 (b) For the purposes of this chapter the following are
8 game animals: elk, deer, squirrel, rabbit, skunk or polecat and
9 raccoon. The following are game birds or game fowl: the
10 anatadae, commonly known as ducks, geese, swan and brant; the
11 rallidae commonly known as mud hens, rails, coots, and galli-

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12 nules; the limicolae, commonly known as short birds, plover,
13 snipe, woodcock, tattlers, curlews, and ortolan, sandpiper; and
14 the gallinae commonly known as wild turkey, ruffed grouse or
15 pheasant, quail or bob white.

16 (c) No person not above the age of fifteen years who is a
17 citizen of the United States shall, at any time, hunt, pursue,
18 kill or catch any wild game animals, or wild game birds or wild
19 game fowl, in this state, or fish for, capture, catch or kill any
20 fish or frogs of any kind whatsoever, without first having secured

21 a license so to do as here provided, and then only during the
22 respective periods when it shall be made lawful to hunt such
23 wild game animals and wild game birds and wild game fowl, or to
24 fish for, capture, catch or kill such fish or frogs. Such license
25 may be procured in the following manner: the applicant who is
26 a resident of this state shall go before the clerk of the county
27 court of the county of his residence and in ink fill out and sign
28 his name to a blank application, which blank application shall be
29 prepared by said commission and furnished to said clerk by it,
30 and which shall state, among other things to be provided therein
31 by said commission, the citizenship, name, age, occupation or pro-
32 fession, weight, height, place of county residence, color of hair,
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33 eyes and complexion of the applicant, and said applicant shall in
34 person make oath thereto before, and file said application with
35 said clerk. If the applicant be a non-resident of this state, he
36 shall make, sign, swear to and file the like form of application,
37 but such application may be signed and sworn to by him before
38 any person authorized in the state of his residence to administer
39 oaths, but said officer taking such affidavit shall affix his seal
40 thereto, and such application may be filed with, and such license
41 may be granted by, any clerk of the county court of any county
42 in this state to whom such application is made. Before any
43 such license shall be issued to a citizen who is a resident of the
44 State of West Virginia, said application shall be made and filed
45 as aforesaid and the applicant shall pay to said clerk so issuing
46 the same the sum of one dollar, and before any such license shall
47 be issued to a citizen who is a non-resident of the state of West
48 Virginia said application shall be made and filed as aforesaid and
49 said applicant shall pay to said clerk the sum of fifteen dollars;
50 *provided*, that a *bona fide* land owner of this state, residing here-
51 in, or his resident children, or his *bona fide* resident tenant, may
52 hunt, pursue, kill or catch any of the game animals or game birds
53 and fowl, or fish for capture or catch or kill any of the fish or

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54 frogs of this state on his enclosed land, during the hunting or
55 fishing seasons therefor, but under the regulations and laws
56 herein expressly made for hunting and fishing, without obtain-
57 ing a license so to do, *provided, however*, said farm land shall
58 have been designated and made, in manner provided by law, a

59 state game refuge or preserve. Nothing herein shall be con-
60 strued to permit any resident or non-resident member of any
61 club or organization or association of persons owning or leasing
62 a game or fish preserve in this state to hunt or fish without hav-
63 ing secured such license therefor.

64 (d) The clerk shall issue and deliver to the applicant, upon
65 the granting of such license, a form of license to be prepared
66 by the commission, which shall be signed by said clerk and be
67 under the seal of the county court of which he is a clerk, and
68 which license shall bear a number according to the serial order
69 in which it was issued. The clerk shall, at the same time, de-
70 liver to the applicant a tag which shall be prepared and deliver-
71 ed to the clerk by the commission, bearing on it the serial num-
72 ber and county of said license and the name and residence of
73 the applicant, and containing the words "resident" or "non-
74 resident" as the case may be. Said clerk shall keep an accurate
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75 list of all licenses issued by them and of moneys received there-
76 for.

77 (e) No person to whom such license is granted shall be en-
78 titled to hunt, pursue, kill or catch any wild game animals or
79 wild game birds or wild game fowl, or fish for, capture, catch or
80 kill any fish or frogs, unless, at the time thereof, he shall have
81 such license in his actual possession, and he shall, on demand, ex-
82 hibit the same to any officer of this state, or to the owner, tenant
83 or lessee of any land on which he is hunting or fishing.

84 (f) Such license shall be issued only until the last day of
85 the calendar year in which the same is issued, and shall permit
86 the holder thereof, in the year in which issued and then only
87 during the times in such year when it is made lawful so to do,
88 to hunt and fish in any of the counties of the state.

89 (g) No person securing such license and tag shall trans-
90 fer the same to any other person or permit any other person to
91 have or use the same. No person shall have, use or exhibit any
92 license or tag which has not been issued to him in manner pro-
93 vided by law.

94 (h) If any person shall violate any of the provisions of sec-
95 tion four (a), (b), (c), (d), (e), (f) or (g), he shall be deemed

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96 guilty of a misdemeanor, and upon conviction shall be fined not
97 less than twenty and not more than two hundred dollars, or may

98 be confined in jail not less than ten nor more than sixty days,
99 for each offense, or, at the discretion of the court may be both
100 fined and imprisoned within the limitations aforesaid.

Sec. 5. (a) All moneys received by or paid to any officer or
2 other person of this state for licenses as aforesaid, or for fines
3 for the violation of the game and fish laws of this state, or other-
4 wise herein provided to be paid to any officer or person of this
5 state, shall be paid to said commission, in the manner and at the
6 times as hereinafter provided, and said commission shall, on
7 receipt of the same by it, forthwith pay over to the state treasurer
8 such money so received, accompanying such money with a state-
9 ment showing in detail the source of such money and the pur-
10 poses for which the same was originally paid. Such officers and
11 other persons so receiving such money shall, on the first day of
12 each month, pay over to said commission all moneys so paid to
13 them during the preceding month, and each such officer and per-
14 sons shall accompany such payment with a report showing, in
15 case of license money, the name of the county, the names and ad-
16 dresses of the persons paying the same, and the date of the re-
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17 ceipt thereof, and in case of fines, the name of the court assessing
18 such fine, the amount thereof, the costs of the action, and the
19 name and address of the person fined, and in all other cases of
20 receipt and payment of money enough of the circumstances to
21 identify the source of the same and the purpose for which paid.
22 All such money so paid for licenses and otherwise than for fines
23 shall be credited to and kept separately in a "Game and fish
24 fund," and shall be used and paid out solely, upon the order of the
25 commission, for the conservation, protection, propagation and dis-
26 tribution of the fish, frogs, wild game and wild birds and fowls
27 of this state, in the enforcement of the fish and game laws of this
28 state, for any of the purposes in this act provided, and for the
29 operation of the commission. All money derived from fines
30 assessed under any provision of this chapter shall, after the pay-
31 ment of all the costs of any such legal proceedings, including the
32 payment of any amount fixed by this chapter to be paid to a deputy
33 warden or other person and taxed as part of the costs, be paid
34 into and credited to the "school fund," as provided by law.

35 (b) If any commissioner, state game warden, game protector
36 or other officer shall fail to make any return of money received
37 or pay the same over at the time and in the manner herein pro-

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38 vided, he shall be guilty of a felony, and upon conviction shall be
39 confined in the penitentiary not less than one and not more than
40 five years.

41 (c) All the money so credited to the game and fish fund and
42 applicable as aforesaid to the up-keep and conduct of the com-
43 mission, shall be withdrawn from the state treasury and ex-
44 pended only upon the written voucher of the commission, au-
45 thorized by it at a meeting duly held, and signed by the chairman
46 of such commission.

Sec. 6. (a) All licenses herein authorized to be granted shall
2 be deemed to have been granted by the commission, and the
3 power and authority to revoke said licenses is vested in the com-
4 mission subject to the rights of a court of competent jurisdic-
5 tion to exercise general jurisdiction in relation thereto. The
6 violation of any of the provisions of this act by any person hold-
7 ing a license shall be deemed good and sufficient cause for the re-
8 vocation of said license and it shall be the duty of the commission
9 to revoke said license for such cause. The violation of any of the
10 provisions of this act in one year shall be sufficient cause for the
11 refusal of the commission to grant in any future year a license to
12 the person so violating any such provision. And a license may
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13 be refused to any person who applies for the same, and a license
14 so granted to any person may be revoked at any time, by the
15 commission, for good cause shown.

16 (b) In case the commission desires to refuse a license to any
17 person, it shall notify the clerk of the county of the residence
18 of such person, or any such clerk where it is expected such license
19 shall be sought, of the name and address of such person and
20 such other information in relation thereto as it may desire to give,
21 and such clerk shall not issue a license to such person there-
22 after, and shall report to the commission any application made
23 therefor. In case any clerk shall, after receiving such notice
24 knowingly issue such license, he shall be guilty of a misdemeanor
25 and upon conviction thereof shall be fined not less than ten dol-
26 lars and not more than one hundred dollars for each offense.
27 The commission may revoke any such license so wrongfully issued.

28 (c) Upon the revocation of any license, the one to whom
29 the same was issued, shall, upon having knowledge of such re-

30 vocation, forthwith deliver the said license and tag so issued to him
31 to the clerk of the county court who issued the same to him and
32 said clerk shall thereupon transmit the same to the commission.

33 (d) It shall be unlawful for any person in any manner to alter
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34 or change any license or tag issued under the provisions of this
35 act, or to buy or sell, or offer to buy or sell the same, or to trans-
36 fer the same to another, or to permit another to use it, and it
37 shall be unlawful for any person to use or wear any such license
38 tag or either of them, (which has been issued to any other per-
39 son than himself.

40 (e) A violation of any of the provisions of this section for
41 which no specific punishment or penalty is fixed, shall be deemed
42 a misdemeanor, and upon conviction the accused shall be fined
43 not less than twenty nor more than one hundred dollars, or con-
44 fined in jail not less than ten nor more than one hundred days,
45 or by both fine and imprisonment, within the limitations afore-
46 said.

Sec. 7. (a) No person shall carry any uncased gun in any
2 of the fields or woods of this state, unless he has such properly
3 issued and valid license, or unless such person be the *bona fide*
4 owner of such field or woods, or his child, tenant or lessee, and
5 said field or woods be enclosed, and the carrying of such uncased
6 gun in any of the fields or woods of this state by any person not
7 having a license to do so, as aforesaid, or by any person not then
8 such tenant or lessee of such enclosed field or woods, or a child
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9 of such owner, tenant or lessee, shall be deemed *prima facie* evi-
10 dence that the person so carrying such uncased gun is hunting
11 game animals or game birds or fowl.

12 (b) Any person having in his possession in the fields or woods
13 or in or about the streams or waters of this state any gun or
14 other hunting paraphernalia or any fishing rod or other fishing
15 paraphernalia, except it be such owner of such field, woods, stream
16 or water, and such field or woods be enclosed, or the child, tenant
17 or lessee of such owner, shall, upon the demand by any officer
18 herein created, or by any constable, sheriff, deputy sheriff, police-
19 man, or any other officer of the law of the state of West Virginia,
20 or by the owner, tenant, lessee, or the agent of the owner of such
21 fields or woods, produce and exhibit his license to such officer or

22 person for inspection, and shall give to said officer or person his
23 correct name and address.

24 (c) No person, to whom the such license is issued, shall hunt, pur-
25 sue, catch or kill game animals, game birds or fowl, or fish for, catch,
26 capture or kill fish or frogs in this state, unless at the time he shall
27 have such license in his actual possession and upon his person.

28 (d) If any person shall violate any of the provisions of sec-
29 tion 7 (a), (b), or (c) he shall be guilty of a misdemeanor, and

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30 upon conviction shall be fined not less than twenty and not more
31 than one hundred dollars, or be confined in jail not less than
32 twenty and not more than one hundred days, for each offense, or
33 by both fine and imprisonment within the limitations aforesaid.

Sec. 8. The commission may, with the consent of the owner or
2 owners of any land in this state, set the same, or any part thereof,
3 aside as a game refuge for the propagation or protection of wild
4 game animals or wild birds or fowls. The establishment of the
5 same as a refuge for the propagation and protection of wild game
6 animals, wild birds or fowl shall be declared by publication of
7 such fact together with a reasonably definite statement of the
8 location and boundaries of such land or stream, in at least two
9 newspapers published in the county or each of the counties in
10 which the same is located, or if there be but one then in one such
11 paper, and the commission shall post and keep posted thereon or
12 thereabout placard notices of the fact of such refuge. During
13 the time of the maintenance of the same as a refuge, no person
14 shall hunt, pursue, kill or catch thereon any wild game or non-
15 game animals or wild birds or fowl, except under the rules and
16 regulations prescribed by the commission for the killing of birds
17 and animals of prey not protected under the law of this state,
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18 and upon conviction thereof the accused shall be punished by a
19 fine of not less than ten nor more than one hundred dollars, or by
20 confinement in jail not less than ten nor more than one hundred
21 days, or by both fine and imprisonment within the limitations
22 aforesaid, for each offense.

Sec. 9. The commission may, with the consent of the owner
2 of any land or stream in this state, by publication and by post-
3 ing of notices as aforesaid as provided in section eight of this act,
4 because of drought, forest fires, diseases existing among the fish,
5 or for the purposes of the conservation, protection or propagation

6 of fish and frogs, declare any stream in this state a fish or frog
7 refuge and thereafter maintain the same as such. After such
8 declaration no person shall, during the time the same is made a
9 refuge, fish for, capture, catch or kill any fish or frogs in said
10 stream or in any manner pollute the waters thereof, and upon
11 conviction thereof the accused shall be punished by a fine of not
12 less than ten nor more than one hundred dollars or by confine-
13 ment in jail not less than ten nor more than one hundred days, or
14 by both fine and imprisonment within the limitations aforesaid,
15 for each offense.

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Sec. 10. The commission may, in its discretion, offer and pay,
2 from time to time, under such regulations as it may prescribe,
3 such bounties on the killing and destruction of wild non-game
4 animals and wild non-game birds which prey upon and destroy
5 game animals and game, song and insectivorous wild birds and
6 fowl of this state, as said commission shall deem necessary.

Sec. 11. No person shall release any fish in any of the public
2 streams of this state or stock the same, without the written con-
3 sent of the commission, provided that private ponds or waters
4 wholly disconnected from the streams of this state may be stock-
5 ed without such consent. No privately owned fish hatcheries
6 or propagation fish plants shall, without the consent of the com-
7 mission, sell any fish for distribution or planting in the streams
8 of this state.

Sec. 12. No person shall hunt, chase, capture, wound or kill
2 any elk in this state at any time for a period of seven years from
3 and after the passage of this act; *provided*, that the owner of any
4 elk which shall be kept in any park or field sufficiently enclosed
5 to reasonably prevent their escape therefrom, shall have the right
6 to kill any such elk of his own; and *provided, further*, that such
7 owner may pursue, recapture or kill any of his elk that may
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8 escape from his enclosure. Any person violating this section
9 shall be guilty of a felony, and upon conviction shall be con-
10 fined in the penitentiary not less than six months and not more
11 than two years for each offense.

Sec. 13. (a) No person shall hunt, chase, capture, wound
2 or kill any deer in this state at any time until the fifteenth day
3 of October, one thousand nine hundred and twenty-three, *pro-*
4 *vided*, that the owner of any deer which shall be kept in any part

5 or field sufficiently enclosed to reasonably prevent their escape
6 therefrom, shall have the right to kill any such deer of his own;
7 *provided, further*, that such owner may pursue, recapture or kill
8 any of his deer that may escape from his enclosure. Any per-
9 son violating this section shall be guilty of a felony and upon
10 conviction shall be confined in the penitentiary not less than six
11 months nor more than two years.

12 (b) No person or persons shall chase or hunt elk, or deer
13 with dogs in this state at any time, or permit his dog or dogs to
14 hunt or chase eld or deer.

15 (c) It shall be lawful to hunt, chase, wound and kill any
16 deer from the fifteenth day of October, one thousand nine hun-
17 dred and twenty-three until the thirtieth day of November, one

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18 thousand nine hundred and twenty-three, and during such period
19 of time in each year thereafter, *provided*, that tame deer shall be
20 excluded from this operation as aforesaid.

21 (d) No person shall kill more than one deer in any one sea-
22 son of each year. No person shall hunt, pursue, catch or kill
23 any deer between nightfall of one day and daylight of the next
24 day. No person shall at any time kill any fawn, doe, or any
25 other deer than bucks with horns or antlers over four inches in
26 length, or have the fresh skin of any doe or fawn in his posses-
27 sion. Each person killing a deer in this state in any season
28 when it is lawful so to do, shall, within twenty days thereafter,
29 inform the commission in writing of such fact, and shall also
30 specify in writing the date and place of such killing, the person
31 by whom killed, the persons hunting with him at such time, the
32 estimated age of said deer, the length of its horns or antlers,
33 whether the same was a male or female, and what was done with
34 said deer.

35 (e) No person shall hunt, pursue, capture, wound or kill
36 any wild turkey between the first day of December of any one
37 year and the fifteenth day of October of the following year, nor
38 shall any person during said period when it shall be lawful to
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39 hunt, pursue, catch and kill wild turkeys, engage therein between
40 nightfall of one day and daylight of the next day, nor shall any
41 person kill more than two wild turkeys in any one day, or more
42 than four wild turkeys in any one open season. In the month
43 of December of each year, it shall be the duty of each person who

44 has killed a wild turkey in this state to make report of the num-
45 ber killed by him, during the open season of that year, to the
46 commission, designating whether the same were male or female.

47 (f) It shall be unlawful for any person to hunt, pursue,
48 catch, capture or kill any ruffed grouse between the first day of
49 December of one year and the fifteenth day of October of the
50 following year, or any quail or Virginia partridge between the
51 first day of December of one year and the first day of November
52 in the following year. Nor shall any person kill more than
53 twelve quail or six ruffed grouse in any one day, nor more than
54 ninety-six quail or twenty-four ruffed grouse in any one year.
55 No person shall hunt, pursue, catch, capture or kill any wild
56 duck, goose or brant, between the first day of January and the
57 fifteenth day of October of any year; *provided*, that the wood
58 duck shall not be killed at any time within this state. No
59 person shall hunt, pursue, catch, capture or kill any woodcock in

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60 this state between the thirtieth day of November of one year and
61 the fifteen day of October of the following year; or any plover,
62 ortolan, or sandpiper between the fifteenth day of December of
63 one year and the first day of September of the following year;
64 or any snipe between the fifteenth day of December of one year
65 and the fifteenth day of October of the following year; nor any
66 gray, black, fox or red squirrel between the first day of December
67 of any year and the fifteenth day of September of the following
68 year. No person shall kill more than fifteen squirrels in any
69 one day nor more than ninety in any one open season.

70 (g) No person shall hunt, capture, gig, catch or kill frogs
71 between the first day of April and the first day of June of any
72 year.

73 (h) Any one violating any provisions of sub-sections (b),
74 (c), (d), (e), (f), or (g) of this section shall be guilty of a
75 misdemeanor and upon conviction shall be fined not less than ten
76 nor more than one hundred dollars, or confined in jail not less than
77 ten nor more than one hundred days, for each offense, or by both
78 fine and imprisonment within the limitations aforesaid. The
79 unlawful killing or capturing of each game animal, game bird, or
80 game fowl shall be deemed a separate offense.

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Sec. 14. It shall be unlawful for any person to hunt, catch,

2 wound or kill any rabbit between the first day of January and the
3 first day of October following; *provided*, that it shall be lawful
4 for any person, or the children or the agent of any such person,
5 to hunt, catch or kill any rabbit upon his own land or any land
6 of which he may be a tenant. No person shall at any time
7 hunt, pursue, catch or kill rabbits with ferrets, excepting that
8 the owner of any land, or his children, or his lessee or agent, may
9 lawfully hunt and kill rabbits with a ferret on said land when it
10 is necessary so to do for the protection of the said land or anything
11 thereon. If any person violate any of the provisions of this sec-
12 tion he shall be guilty of a misdemeanor, and upon conviction
13 thereof shall be punished by a fine of not less than ten dollars nor
14 more than one hundred dollars or by confinement in jail of not
15 less than ten days nor more than one hundred days, or by both
16 fine and imprisonment within the limitations aforesaid.

Sec. 15. (a) It shall be unlawful for any person to catch,
2 kill or injure any raccoon between the first day of February of
3 any one year and the first day of November of said year, and any
4 polecat or skunk between the first day of February of any year
5 and the first day of December of the same year, and any person
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6 violating this section shall on conviction be punished by a fine
7 of not less than ten dollars nor more than one hundred dollars,
8 or by confinement in jail of not less than ten days nor more than
9 one hundred days, or by both fine and imprisonment within the
10 limitations aforesaid.

11 (b) It shall be unlawful, at any time, to hunt, pursue, catch,
12 capture or kill any Hungarian pheasant or quail, Reeve's pheasant
13 English pheasant (not meaning thereby ruffed grouse), Lady
14 Amherst's pheasant, Chinese pheasant, Caporcalzie, or any other
15 foreign game bird introduced into this state by the commission,
16 or any song or insectivorous bird, and a violation thereof shall be
17 deemed a misdemeanor, and upon conviction the accused shall be
18 punished by a fine of not less than ten nor more than one hundred
19 dollars, for each offense, or by confinement in jail of not less than
20 ten nor more than one hundred days, or by both fine and im-
21 prisonment within the limitations aforesaid, and the killing of
22 each or any bird so prohibited shall constitute and be a separate
23 offense.

Sec. 16. (a) It shall be unlawful for any person to catch and
2 keep, or not to return to the water immediately after catching, any

3 jack salmon, commonly called jack fish, or any white salmon, less
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4 than seven inches in length, or any pike or pickerel of less than
5 ten inches in length, or any bass less than eight inches in length,
6 or any trout less than six inches in length. Fish less than the
7 length prescribed herein shall be returned to the water im-
8 mediately after being caught with as little injury as possible.
9 The measurement of the fish shall be taken from the end of the
10 nose to the center fork of the tail.

11 (b) It shall be unlawful to fish for, catch, take, kill or
12 destroy any jack salmon, jack fish, or white salmon in any manner
13 between the first day of April and the first day of June of each
14 year; or any trout or landlock salmon in any manner between the
15 first day of August and the first day of April following; or any
16 black bass, green bass, willow bass, rock bass, pickerel or wall-eyed
17 pike between the first day of April and the first day of June of
18 each year.

19 (c) It shall be unlawful for any person to catch or destroy
20 fish in any dam or pond on the enclosed land of any person,
21 except with the consent of the owner of such dam or pond, un-
22 less such dam or pond be a part of the rivers of this state.

23 (d) It shall be unlawful for any person to kill or catch or at-
24 tempt to kill or catch any fish in this state, or in any water sub-

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25 ject to the jurisdiction of this state, at any time, by means of
26 seines, nets or traps, or devices of like nature, unless written
27 consent shall have been given by the commission for the use of
28 such seines as hereinafter provided; or by draining water out of
29 any pond, pool, or any stream known to contain trout or bass
30 with the intent to take or injure the fish therein; or by the use
31 of dynamite or any like explosive, or any poisonous drug or sub-
32 stance, or by the use of electricity or lime; or by the use of a
33 gun, rifle, pistol or any other like weapon; or by any other means
34 whatsoever except by rod, line and hook or hooks with natural or
35 artificial lures; *provided*, (1), that it shall be lawful to kill or
36 catch fish in the Ohio river by means of seines between the first
37 day of September of one year and the first day of March of the
38 year following, if and when permission so to do shall have been
39 given in writing by the commission, and in such case upon such
40 terms and conditions as the commission may fix, and *provided*,

41 (2) that any person may employ a seine not more than eight
42 feet in length for the purpose of securing minnows other than
43 the salmon, bass, shad, pike and trout, for use in angling, and
44 *provided*, (3) that the commission may, at any time, catch fish
45 with nets, seines or otherwise for the purpose of propagation and
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46 protection of the fish of this state, and may at any time catch
47 and kill fish.

48 (e) Any person violating any provision of this section shall
49 be guilty of a misdemeanor, and upon conviction thereof shall be
50 fined not less than ten dollars nor more than one hundred dol-
51 lars, and may, at the discretion of the court or justice trying
52 the case, be confined in the county jail not exceeding thirty days,
53 or both fine and imprisonment within the limitations aforesaid.

Sec. 17. The game commission may hunt, capture, kill and
2 maintain in captivity, at any time, for the purpose of propaga-
3 tion, protecting and distributing, any of the game animals, game
4 birds, game fowl, fish or frogs or any of the wild animals, wild
5 birds and wild fowl of this state.

Sec. 18. It shall be unlawful for any person, at any time, to
2 catch, capture or kill, or attempt to catch, capture, or kill, at any
3 time by seine, net, bait trap or snare or like device of any kind,
4 any wild turkey, ruffed grouse, pheasant, quail, or catch, capture
5 or kill any elk or deer by means of any poison, bait, trap or snare,
6 or any other like means or device, and any person violating any
7 of the provisions of this section shall be guilty of a misdemeanor,
8 and upon conviction thereof shall be fined not less than ten nor

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9 more than one hundred dollars, or by confinement in jail not less
10 than ten nor more than one hundred days, or by both fine and
11 imprisonment within the limitations aforesaid.

Sec. 19. It shall be unlawful to hunt, catch, kill or injure, or
2 pursue within tent to catch, kill or injure, any game animals,
3 game birds, game fowl, or any other animal or bird or fowl pro-
4 tected under the provisions of this chapter, on the first day of
4-a the week commonly known as Sunday, and any person violating
5 any provision of this section shall be guilty of a misdemeanor and
6 upon conviction fined not less than ten nor more than one hun-
7 dred dollars for each offense, or by confinement in jail not less
8 than ten nor more than one hundred days, or by both fine and
9 imprisonment within the limitations aforesaid.

Sec. 20. No person, firm or corporation shall build, erect, keep or maintain any dam or any other structure in any river, creek or water course in this state, which shall in any way prevent or obstruct the free and easy passage of the fish up or down such river, creek or other water course, without first building, or erecting as a part of such dam or other structure, a good and sufficient ladder or way so constructed to allow fish easily to ascend or descend the same, and such ladder or way shall be constructed

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only upon plans, in a manner and at a place satisfactory to the commission. Any person, firm or corporation violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten nor more than one hundred dollars, and such person, or in case of violation by a corporation the officers or agents thereof violating this section, may be punished further by imprisonment in jail not less than ten days nor more than one hundred days, or upon conviction thereof by both fine and imprisonment within the limitations aforesaid. Each day such dam or structure is maintained shall constitute and be a separate offense and punishable as such.

Sec. 21. It shall be unlawful for any person, firm or corporation to throw, discharge or cause to enter into any stream, water-course or water in this state saw-dust or other matter deleterious to the propagation of fish. It shall be lawful, however, to drain or cause to be drained from any mine in the state by the owner or operator thereof the water that naturally collects in such mine and the water from any coal washery, and to discharge the same into any stream, water-course or water in the state; *provided, however,* that any mine from which the water is so discharged or drained shall be kept in a sanitary condition and the water draining or

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flowing from such mine, and from such washery, shall, while in the mine and on the premises of the mine owner or operator, be kept free from pollution by human or animal excrement or substance deleterious to health. And the state board of health, its agents, employees and servants shall at all seasonable times have authority to enter upon the premises and into any such mine in order to see that the same is kept in a sanitary condition and that the waters draining therefrom are free from the objectionable substance named herein; with the right to the state board of health to prevent any mine owner or mine operator who fails to comply

21 with the provisions of this act from draining or discharging the
22 water or waters from his or its mine into any stream, water or
23 water-course in the state; *provided, further*, that any mine owner
24 or operator having one suitable, convenient and sufficient outlet
25 for the water from his or its mine into one stream shall not cause
26 the same to be drained into any other stream. Any person, firm
27 or corporation violating any of the provisions of this section shall
28 be guilty of a misdemeanor, and fined not less than ten nor more
29 than one hundred dollars, and such person violating this section,
30 and the officer or agent of any corporation who directs or parti-
31 cipates in the violation of this section, may be imprisoned in jail
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32 not less than ten nor more than one hundred days, or both such
33 fine and imprisonment may be imposed for such violation.

Sec. 22. All prosecutions under this chapter shall be in the
2 name of the state of West Virginia and the justices of the peace
3 in their respective jurisdiction shall, in all misdemeanors, have
4 concurrent jurisdiction with the circuit or other criminal courts
5 of any county.

Sec. 23. No person shall, within the state of West Virginia,
2 kill or catch, or have in his possession, living or dead, any wild
3 bird other than a game bird or a wild bird for which a bounty has
4 been offered by the commission; or purchase, offer or expose for
5 sale, transport within or without the state, any such bird, except
6 as aforesaid. No part of the plumage, skin or body of any bird
7 protected by this section shall be sold or had in possession for
8 sale irrespective of whether said bird was captured within or
9 without the state.

Sec. 24. No person shall wilfully or needlessly destroy or
2 attempt to destroy the nest or the eggs of any wild bird, or have
3 such nest or eggs in his possession, except it be the nest or eggs
4 of a bird for which a bounty has been offered by the commission,
5 or, unless such person be acting under a certificate issued by the
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6 commission to any person for the purpose of collecting birds, their
7 nests or eggs, for scientific purposes.

Sec. 25. Any person violating any of the provisions of sec-
2 tions twenty-three and twenty-four shall be guilty of a misde-
3 meanor and upon conviction thereof shall be punished by a fine
4 of not less than ten nor more than one hundred dollars or by

5 confinement in jail not less than ten nor more than one hundred
6 days, or both fine and imprisonment within the limitations afore-
7 said.

Sec. 26. (a) No person shall, at any time, kill or have in
2 his possession any deer, quail, pheasant, or ruffed grouse, wild
3 turkey, squirrel, or any part of the same, or any game fish or
4 frog killed, caught or captured in this state, with the intention of
5 transporting the same or having the same transported beyond the
6 limits of the state. No person shall transport beyond the limits
7 of this state any elk, deer, quail, pheasant, or ruffed grouse, wild
8 turkey, squirrel, wild duck or wild goose or game fish or frog, so
9 killed, caught or captured within this state.

10 (b) It shall be unlawful for any person at any time to pur-
11 chase, or offer to purchase, or to sell, or offer to sell, or to ex-
12 pose for sale, or have in his possession for the purpose of selling,
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13 any elk deer, squirrel, wild turkey,, ruffed grouse, quail, wood-
14 cock, wild duck, wild goose, wild swan, wild brant, snipe, sand-
15 piper, or any of the song or insectivorous birds of the state, and
16 it shall be unlawful for any person at any time to purchase, or
17 offer to purchase, or sell or offer to sell, or expose for sale, any
18 trout of any species, salmon of any species, pike, or any bass of
19 any species, or perch, or any frog, caught or captured within the
20 state, and it shall be unlawful for any person or common carrier to
21 transport, carry or convey or to receive for such purpose, any of
22 the animals, birds or fowls aforesaid, or any part of the same, or
23 said fish or frogs so caught or killed within the state, knowing or
24 having reason to believe that said animals, birds, fish or frogs had
25 been or were to be sold. The selling or exposing for sale, hav-
26 ing in possession for sale, transporting and carrying, contrary to
27 the provisions of this section of each and every animal, fish or
28 bird mentioned in this section shall constitute and be a separate
29 offense.

30 (c) It shall be unlawful for any person firm or corporation
31 to employ or hire, or to induce or persuade, by the use of money or
32 other thing of value, or by any means to induce, any person to
33 hunt, catch, or kill for such other person, firm or corporation, any

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34 game animal, game bird or game fowl, or any other bird or fowl
35 for which no bounty has been offered by the commission, or to fish

36 for, catch or kill any fish which is protected under any of the
37 provisions of this chapter, or the sale of which is prohibited by
38 this chapter. It shall be unlawful for any person to charge, ac-
39 cept, receive or take money, wages, hire or reward of any kind,
40 to hunt, pursue, capture or kill, for any other person, any game
41 animal, or game bird or game fowl, or any song or insectivorous
42 bird, or any game fish or frog.

43 (d) It shall be unlawful for any person to serve for pay, either
44 directly or indirectly, at any hotel, restaurant, or other licensed
45 eating places in this state, or in any eating place in this state,
46 any game animal, game bird, or game fowl, or any part thereof
47 whether caught within or without this state, or any game fish or
48 frog caught within this state.

49 (e) Any person violating any of the provisions of section
50 twenty-six shall be deemed guilty of a misdemeanor and upon
51 conviction, shall be fined not less than ten nor more than two
52 hundred dollars, or by confinement in jail not less than ten nor
53 more than one hundred days, or by both fine and imprisonment
54 within the limitations aforesaid, and in the case of violation by
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55 a corporation every officer or agent directing or engaged in the
56 violation shall be guilty, and in, the discretion of the court pun-
57 ishment may be by both fine and imprisonment.

Sec. 27. It shall be unlawful for any person while engaged in
2 hunting or pursuing game animals, game birds or game fowl,
3 carelessly or negligently to shoot or wound or kill any live stock,
4 or destroy or injure any other chattels or property, and any one
5 violating this section shall be deemed guilty of a misdemeanor,
6 and on conviction thereof may be fined not exceeding one thous-
7 and dollars, and, in the discretion of the court trying the case,
8 may in addition thereto be confined in the county jail for a period
9 not exceeding one year.

Sec. 28. It shall be unlawful for any person to shoot or dis-
2 charge any firearms across or in any public road in this state,
3 at any time, or within eight hundred feet of any school house or
4 church, or within one thousand feet of any dwelling house, or on
5 or near any park or other place where persons gather for purposes
6 of pleasure, and any person violating this section shall be deemed
7 guilty of a misdemeanor and upon conviction thereof shall be
8 fined not less than ten nor more than one hundred dollars, or at

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9 the discretion of the court may be imprisoned not more than one
10 hundred days, for each offense.

Sec. 29. It shall be unlawful to shoot, hunt, fish or camp upon
2 the enclosed or improved lands of another person, or to peel or
3 cut trees or to build fires, without permission in writing from the
4 owner, lessee or other person entitled to possession of such land,
5 or the agent of such person duly authorized to give such permis-
6 sion, and such persons so shooting, hunting, fishing or camping on
7 the lands of others shall have such written permission with him
8 when so doing. It is made lawful for such owner, lessee or per-
9 son who is entitled to possession of such land, or the agent thereof,
10 to arrest any person in the act of violating this section and such
11 owner, lessee or other person is for such purposes vested with all
12 the powers and rights of a game protector for such purpose. Any
13 person violating any of the provisions of this section shall be
14 deemed guilty of a misdemeanor, and upon conviction shall be
15 fined not less than ten nor more than one hundred dollars and
16 may, at the discretion of the justice, be confined in the county jail
17 not more than thirty days.

Sec. 29½. It shall be unlawful to fish for, catch, capture or
2 take, or attempt to catch, capture or take, any fish in or from any
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3 spring, brook, stream or run, situate on unenclosed land which is
4 the property of any person, firm or corporation, except with the
5 consent of the owner of such unenclosed land; *provided*, first, that
6 the owner of such unenclosed land shall have erected and does
7 maintain, at conspicuous and frequent places about said spring,
8 or about and along said brook, stream or run, signs or placards
9 at least one foot square on which shall be the words "no fishing
10 or trespassing allowed here", together with the name of the per-
11 son so owning such unenclosed land, which signs shall be placed
12 in the case of a brook, stream or run, at or near the point where
13 the same enters and another at or near the point where the same
14 leaves the land of such person and at least another one for each
15 mile of said stream placed about an equal distance from each
16 other. Any person violating this section shall be guilty of a
17 misdemeanor, and upon conviction shall be fined not less than ten
18 and not more than two hundred dollars, or may be confined in
19 jail not less than ten and not more than one hundred days, or

20 may be both fined and imprisoned within the limitations afore-
21 said.

Sec. 30. (a) The commission is vested with authority and
2 power to protect the forest against injury or destruction by fire.

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3 and it is made the duty of the commission, the state game warden,
4 and the game protectors, upon receiving notice of any such forest
5 fire to employ all the necessary means to confine or extinguish the
6 same. For this purpose authority is given to destroy fences,
7 plough lands or in cases of extreme emergency, to set back fires.
8 The state game warden and game protectors may, under the gen-
9 eral supervision of the commissioner, in case of emergencies,
10 summon or employ persons to assist in fighting fires, who shall be
11 paid at the rate of three dollars a day for the actual time so em-
12 ployed in fighting such fires. Any person summoned who shall
13 fail or refuse to assist in the fighting of such fires shall, unless
14 such failure is due to physical inability, be convicted of a misde-
15 meanor, and upon conviction be fined not less than ten nor more
16 than twenty dollars for each offense.

17 (b) All services rendered at forest fires except that rendered
18 by a game warden or protector, shall be charged against the county
19 in which the fire was, and each game protector shall render to the
20 county court, within twenty days after such fire, and also to the
21 commission, a sworn statement of the time used in fighting such
22 fires together with the name or names of all persons who were
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23 summoned and assisted thereat and the amount of money due
24 each therefor.

25 (c) Whoever by himself, or by his servants, agents or guide,
26 or as the servant, agent or guide of any other person, shall build
27 any fire, or use an abandoned fire in a field, public or private road,
28 or adjacent to, or in any woods or forest in this state, shall, before
29 leaving such fire, totally extinguish the same, and upon failure to
30 do so, such person, or persons, shall be deemed guilty of a misde-
31 meanor, and on conviction thereof, shall be fined not less than
32 twenty-five dollars nor more than one hundred dollars and costs
33 of the prosecution, and upon default in paying said fine and costs
34 shall be confined in the county jail not more than ninety days
35 unless said fine and costs be sooner paid. If any person, or
36 persons, negligently set on fire any woods, fields or lands within
37 this state, so as thereby to occasion loss, damage or injury to any

38 other person, he shall be guilty of a misdemeanor and on conviction thereof, shall be fined not less than fifty dollars nor more than five hundred dollars, and in the discretion of the justice or court trying the case, be imprisoned in the county jail not to exceed one year, and upon default in payment of the fine and costs, he shall be imprisoned in the county jail not to exceed

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42-b six months, and if any person or persons willfully set on fire any woods, fields or lands within the state, not his own so as thereby to occasion damage or injury to any other person, he shall be guilty of a felony and on conviction thereof, shall be confined in the penitentiary not less than one nor more than two years.

47 (d) Every railroad company shall, on such part of its road as passes through forest lands or lands subject to fires from any cause, cut and remove from its right of way along such lands, at least twice a year, all grass, brush and other inflammable materials and employ in seasons of drought and before vegetation has revived in the spring, sufficient trackmen to promptly put out fires on its rights of way; provide locomotives thereon with netting of steel or iron wire so constructed as to give the best practicable protection against the escape of fire and sparks from the smoke stacks thereof, and adequate devices to prevent the escape of fire from ash pans and furnaces which shall be used on such locomotives.

59 No railroad company or employee thereof, shall deposit fire coals or ashes on its track or right of way near such lands. In case of fire on its own or neighboring lands, the railroad company shall use all practicable means to put it out. Engineers, conductors or trainmen discovering or knowing of fires in fences

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63 or other material along or near the right of way of the railroad in such lands, shall report the same at the first station to the station agent, and such station agent shall forthwith notify the nearest fire warden and use all necessary means to extinguish the same. And any officer or employee of a railroad company violating any provisions of this section, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined a sum not less than twenty nor more than two hundred dollars.

72 (e) The commission shall in the name of the county in which any forest fire has occurred, and which has been extinguished or suppressed by its efforts, recover from the person or persons, firm

75 or corporation giving origin to such fire, the amount so expended
76 in extinguishing said fire and the costs thereof, and the same shall
77 not bar the rights of damage between the parties thereto.

Sec. 31. The commission, by and with the consent of the gov-
2 ernor, shall have the power and right to purchase, in the name of
3 the state, lands suitable for forest culture or game and fish re-
4 serves, out of any unused funds in the hands of the commis-
5 sion under this chapter, but such purchases may be made on not
6 less than one-third of the purchase price to be paid down at the

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7 time of the conveyance and the residue in not less than one and
8 two years after date, and when so purchased the commission may
9 maintain the same as a forest, game and fish reserve and make
10 such regulations for the upkeep, protection and operation of the
11 same as said commission may deem necessary, and for the purpose
12 of establishing such forest, game and fish reserves the commission
13 may take any gift of any land. In the case of gifts or purchases
14 the absolute fee simple title shall pass to the state except for the
15 reservation of minerals and the mining rights to remove such
16 minerals.

Sec. 32. Any person violating any of the provisions of this act
2 the punishment for which is not expressly fixed, shall be deemed
3 guilty of a misdemeanor, and shall be fined not less than ten and
4 not more than one hundred dollars, or confined in jail not less
5 than ten and not more than one hundred days, or may be punished
6 by both fine and imprisonment, at the discretion of the court, but
7 within the limitations aforesaid, and in a case of a corporation all
8 the agents and officers of such corporation directing or engaged
9 in or about such violation may be punished as aforesaid.

Sec. 33. Any person may kill any dog that he may see chasing,
2 worrying, wounding or killing any sheep, lambs, goats or kids
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3 outside of the enclosure of the owner of such dog, unless the same
4 be done by the direction of the owner of such sheep, lamb, goats
5 or kids.

Sec. 34. If any dog shall have killed or assisted in killing,
2 wounding or worrying any sheep, lambs, goats or kids out of the
3 enclosure of the owner of such dog, the owner or keeper of such
4 dog shall be liable to the owner of such sheep, lambs, goats or kids
5 in the amount of the damages sustained, to be recovered in action
6 before any court or justice having jurisdiction of such action;

7 and it shall not be necessary to sustain such action, to prove that
8 the owner or keeper of such dog, knew such dog was accustomed to
9 do such worrying, killing or wounding; but a recovery under this
10 section shall bar and preclude the owner of such sheep, lambs,
11 goats, or kids from obtaining compensation from the county court
12 and when compensation is obtained from the county court under
13 any law which is now or may hereafter be in force, then the county
14 wherein the payment is made, is authorized to sue under this sec-
15 tion, and recover as the owner of the sheep, lambs, goats or kids,
16 might have done, and the amount so recovered shall be paid into
17 the county treasury; but no suit shall be commenced unless author-
18 ized by the county court. Any person who shall harbor or secrete

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19 or aid in secreting any dog which he knows or has reason to believe
20 has worried, chased or killed any sheep, lambs, goats or kids, not
21 the property of the owner of such dog, out of his enclosure, or
22 knowingly permits the same to be done on any premises under his
23 control, shall be guilty of a misdemeanor, and upon conviction
24 thereof before any court of justice having jurisdiction thereof, in
25 the county in which the offense is committed, be fined not less than
26 ten dollars nor more than fifty dollars, and at the discretion of
27 the court or justice, imprisoned in the county jail not more than
28 thirty days; and each day that such dog is harbored, kept or
29 secreted, shall constitute a separate offense.

Sec. 35. The owner or keeper of any dog that has been worry-
2 ing, wounding, chasing or killing any sheep, lambs, goats or kids,
3 not the property of such owner or keeper, out of his enclosure shall,
4 within forty-eight hours after having received notice thereof in
5 writing from reliable and trusty source, under oath, cause such
6 dog to be killed; if the owner or keeper refuse to kill said dog as
7 hereinbefore provided any justice of the peace upon information,
8 shall summon the owner or keeper of said dog, and after receiv-
9 ing satisfactory proof that his dog did the mischief, shall issue a
10 warrant on application being made by the owner of the sheep,
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11 lambs, goats or kids killed, and give it into the hands of the con-
12 stable, special constable or sheriff, who shall kill the dog forth-
13 with; the cost of said proceedings shall be paid by the owner of
14 the dog so killed, including a fee of fifty cents to the officer kill-
15 ing the said dog; the owner of said dog so killed, shall in ad-
16 dition to the costs, be liable to the owner of the sheep, lambs, goats,

17 or kids, or to the county court for the value of the sheep, lambs,
18 goats or kids so killed or injured.

Sec. 36. It shall be unlawful for any person to suffer or per-
2 mit any dog in his possession or kept by him about his premises,
3 to run at large on any unenclosed land, or trespass upon any en-
4 closed or unenclosed lands of another. If any dog be suffered
5 or permitted to run at large or trespass as aforesaid, or kill or
6 assist in killing, injuring or chasing any sheep or other domestic
7 animals out of the enclosure of the owner or keeper of such dog,
8 proof that such dog was at large at the time and place of injury
9 complained of shall be *prima facie* evidence of liability and guilt,
10 as hereinafter provided.

Sec. 37. The county court of every county and the council of
2 every municipality, shall prepare and deliver, to its assessor,
3 sheriff, constables, or other police officer, consecutively num-
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4 bered aluminum or brass tags, bearing the calendar year and the
6 be delivered by them to any citizen of the county or municipality
7 who may apply thereof and pay into its treasury a fee of not more
8 than twenty-five cents for each tag, which tags shall be fastened
9 upon the collars worn by the dogs owned or kept by such citizens,
10 and for which fee such officer shall issue a receipt showing the
11 name and address of the citizen and the year and number of the
12 tag. Such officer shall also keep a record book showing the name
13 and address of each citizen to whom such tags are issued, the num-
14 ber of such tag so issued and the year thereof. Any citizen may,
15 and the sheriff, constables or other police officers, or officers of any
16 county, district or municipality, shall seize any dog found un-
17 accompanied by its owner or keeper and running at large on any
18 road, street or other public place or trespassing on any premises
19 other than the premises of the owner. If such dog is wearing a
20 collar bearing such tag, it shall be impounded and the citizen or
21 officer so seizing and impounding said dog shall immediately
22 thereafter by written notice notify the owner of such dog as dis-
23 closed by the records herein provided for to be kept that such dog
24 has been seized and impounded by him and unless such owner
25 or keeper of such dog shall, within seven days from the receipt
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26 of said notice claim such dog, and pay such citizen or officer a
27 fee of two dollars for seizing and a fee of ten cents for each day
28 it is impounded, it shall be killed forthwith in any humane man-

29 ner. *Provided*, that any citizen or officer may kill any danger-
30 ous or vicious dog or any dog not registered as herein provided
31 for, or any dog permitted to run at large after the owner or keeper
32 shall have had notice not to permit such dog to run at large, if
33 such dog be off the premises and out of the control of its owner
34 or keeper. No citizen or officer shall be liable in damages or to
35 prosecution by reason of killing any dog as herein provided. For
36 every dog seized and not claimed by its owner or keeper as afore-
37 said, the county court shall pay the citizen or officer thereto en-
38 titled thereto said fees and costs upon due proof of the seizure,
39 impounding and killing of such dog; and the owner or keeper shall
40 be liable therefor in any action before the court or justice having
41 jurisdiction; *provided, further*, that it shall be the duty of the
42 common council of every incorporated city, town or village in
43 this state, to provide a suitable pound for such dog or dogs so
44 seized under the provisions of this act.

Sec. 38. It shall be unlawful for any unnatural foreign born

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2 resident of this state to own or keep a dog of any kind in this
3 state.

Sec. 39. Nothing in this act shall be construed to prevent any
2 citizen of this state from lawfully hunting with a dog or dogs
3 on any land owned by him or by any person from whom such
4 citizen has first secured permission to hunt with a dog or dogs;
5 and no citizen shall hunt with a dog or dogs upon the land of an-
6 other without written or verbal permission from the owner or
7 lessee thereof.

Sec. 40. Any person violating any provision of section thirty-
2 three, thirty-four, thirty-five, thirty-six, thirty-seven, thirty-eight
3 or thirty-nine of this act or failing or neglecting to perform any
4 duty imposed by said sections thirty-three, thirty-four, thirty-five,
5 thirty-six, thirty-seven, thirty-eight, thirty-nine or forty shall be
6 liable, in an action of prosecution before any court or justice hav-
7 ing jurisdiction, for the amount of damage sustained, and also
8 for a fine of not to exceed one hundred dollars and the cost of
9 prosecution, or to imprisonment in the county jail not more than
10 thirty days, or to both fine and imprisonment; and any person
11 who shall remove from any dog a collar bearing a tag as pro-
12 vided for in this act, or who shall alter or remove any such tag
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13 from a dog properly registered as herein provided for shall be
14 guilty of a misdemeanor, and, upon conviction, shall be fined not
15 to exceed one hundred dollars and the cost of the prosecution, or
16 to imprisonment in the county jail not more than thirty days, or
17 to both fine and imprisonment and shall be liable to the owner or
18 or keeper of such dog in a civil action for the amount of damages
19 sustained.

Sec. 41. Chapter sixty-two of the code of West Virginia, of
2 one thousand nine hundred and sixteen, as last amended and re-
3 enacted by chapter fifty-two of the acts of the legislature of West
4 Virginia, of one thousand nine hundred and nineteen, regular ses-
5 sion, and all other acts and parts of acts in conflict with the
6 provisions of this act are hereby repealed.

House Bill No 455

(BY MR. HAYMOND.)

[Introduced January 25, 1921; referred to the Committee on
Immigration and Agriculture.]

Senate Bill No. 252

(BY MR. YORK.)

[Introduced January 25, 1921; referred to the Committee on
Finance.]

[Note by clerks. In the first printing, Senate Bill No. 255 in-
stead of Senate Bill No. 252 was given as the duplicate of House
Bill No. 455.]

A BILL to encourage the breeding of horses, the establishment of
fairs and to regulate the holding of fairs, race meetings and the
running of horses in the state of West Virginia, and to establish

a state racing commission to control the same and describing its powers and uses.

Be it enacted by the Legislature of West Virginia:

Section 1. Any corporation or association formed for the purpose of racing and the breeding and improving the breed of horses and conducting horse races in contests of speed, and the establishment of fairs, exhibition of horses, shall have the power and right, subject to the provisions of this act, to hold one or more race meetings in each year and to hold, maintain and conduct running, trotting and pacing races at such meetings.

At such meetings the corporation or owners of the horses engaged in such races, or others who have participated in the races for purses, prizes, premiums or stakes to be contested for, but no person or persons other than the owners of horses contesting in a race shall have any pecuniary interest in the purses, prizes, premiums or stakes contested for in such races, or be entitled to

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receive any portion thereof after such race has been finished, and the whole of such purses, prizes, premiums and stakes shall be allotted in accordance with the terms and conditions of such race and the provisions of this act hereinafter contained. *Provided, however,* the breeder or breeders of any horses contesting in such race may have allotted in accordance with the terms of such race their share in such purses, prizes, premiums or stakes contested for.

Such meetings and fairs shall not be held except during the period extending from the first day of April until the first day of December, inclusive, in each year, unless, for special reasons the state racing commission hereinafter provided for may authorize other dates.

Sec. 2. A state racing commission is hereby established, created and constituted, to be composed of three persons, who are residents and citizens of this state, which shall be appointed by the governor of this state, and not more than two of whom shall belong to the same political party. The said state racing commission, so to be appointed, shall each hold office for a term of four years, and each of them before assuming the duties of his office shall take an oath to support the constitution of the United States, the constitution of this state, and faithfully discharge his

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10 duties as such member of said racing commission, which oath
11 shall be filed in the office of the secretary of state.

12 The first commission to be appointed under this act shall be
13 appointed within fifteen days after this act goes into effect. Said
14 commission shall have the power to appoint a secretary who shall
15 serve during its pleasure and who shall have his office at the
16 capital of the state, and whose duty it shall be to keep a full and
17 complete record of the proceedings of the state racing commis-
18 sion, and to preserve at its office all books, maps, documents and
19 papers entrusted to his care and perform such other duties as the
20 commission may prescribe. The said clerk shall be paid a salary
21 not to exceed fifteen hundred dollars per annum and each of said
22 members of said racing commission shall receive a compensation
23 of five dollars per day for the time actually engaged in their duties
24 as members of said commission, together with their actual ex-
25 penses in traveling while attending to their duties as members of
26 said commission. But no part of the salary of said clerk or com-
27 mission shall be paid out of the state treasury but the same shall
28 be assessed by the commission and paid by the several associa-
29 tions and corporations acting under the provisions of this act and

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30 the said commission shall on or before the first day of December
31 in each year assess upon each of said associations and corpora-
32 tions its just proportion of said salary so to be paid to said clerk
33 and the said commission. The said commission shall before re-
34 ceiving the money for their per diem and expenses heretofore
35 provided, file with the tax commissioner an itemized statement
36 of the time employed by each and the expenses incurred by each,
37 which is not to be paid until approved by the tax commissioner.

38 And the said commission shall also (bi-annually) make a full
39 report to the legislature of the proceedings for the two years
40 period ending with the first day of December preceding the meet-
41 ing of the legislature and shall embody in said report such sug-
42 gestions and recommendations as it may deem advisable to be
43 submitted to the legislature, together with the expenses that it has
44 assessed upon said meetings and associations to pay the expenses
45 of said commission and clerk as herein provided, and what amount
46 has been paid into the state under the provisions of this act as
47 hereinbefore provided.

Sec. 3. The said racing commission shall have the power to

2 prescribe the rules, regulations and conditions under which races
3 shall be conducted in this state, which rules and regulations shall
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4 be recorded upon its books in its office and any corporation or as-
5 sociation desiring to conduct racing at any meeting may annually
6 apply to the state racing commission for a license to do so and all
7 licenses issued shall also be shown upon the books of said com-
8 mission.

9 Said commission shall issue said license and grant the same for a
10 term of one year, but said license shall contain a provision that
11 all meetings and races conducted under this act shall be subject
12 to the rules, regulations and conditions from time to time adopted
13 by said commission and shall be regulated by the commission.

14 The books and proceedings of said commission so kept showing
15 the rules prescribed by it for the conduct of said meetings and the
16 issuing of said licenses and all other proceedings by it, shall at all
17 times be subject to the inspection upon application of any one so
18 desiring to see the same and shall be treated as public records.

19 Said commission may have the power for good reasons to re-
20 voke any license granted by said commission to any association or
21 corporation, but the action of said commission in revoking any
22 such license shall be subject to a review by any court of competent
23 jurisdiction.

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Sec. 4. Said commission in granting any license to any such
2 corporation or association to conduct racing, may in its discre-
3 tion permit the use during such meetings of what is known as
4 parimutuel machines to be used during such meeting, if such
5 corporation or association so desires, but it shall be unlawful for
6 said association or corporation to permit gambling at such meet-
7 ings by means of bookmaking.

8 In cases where said commission permits the use of parimutuel
9 machines the said commission shall require in the license to use
10 the same that at least one per cent. of all money placed in said
11 machines during any meeting or association, shall be paid to the
12 tax commissioner of the state and shall be credited by the tax
13 commissioner to the state agriculture department. And the books
14 of said racing association or corporation using said machines at
15 any meeting conducted by it shall at all times be open to inspection
16 by the said tax commissioner or said racing commission, to see
17 that the proper amount due to the state from the money placed

18 in said machines may be properly accounted for to the state. And
19 the amount due from any association or corporation to the state
20 shall be paid and accounted for to the tax commissioner of the
21 state on or before the first day of December of each year; but
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22 nothing in this act providing for the payment of this tax to the
23 state shall prevent the commission from granting the license to
24 said corporation or association permitting said machines such ad-
25 ditional amount as in its judgment is necessary to maintain said
26 corporation and association and provide suitable purses, prizes and
27 premiums for breeders and owners of horses to contest for at such
28 meetings.

29 Public bookmaking and gambling at any race meeting shall not
30 be permitted by said racing commission, and the same is hereby
31 declared a misdemeanor and shall be punished by a fine not less
32 than one hundred dollars nor more than one thousand dollars for
33 each day the same is permitted or allowed, and any association or
34 corporation permitting the same shall be guilty of such misde-
35 meanor, and all persons aiding and abetting therein shall like-
36 wise be guilty of said misdemeanor and punishable by fine as
37 hereinafter provided.

38 But it is expressly provided that this act shall not apply to
39 horse shows, the purpose of which is merely to show horses, un-
40 less racing is conducted and such horse shows and the purposes,
41 prizes and stakes provided in such race contests and all such
42 meetings known as horse shows where prizes, purses and stakes are

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43 offered in contest for speed shall be under the provision of this
44 act and this act shall apply to same.

45 *Provided, however,* in no case shall this act apply to any fair or
46 horse show held for a period of not over five days.

Sec. 5. All acts, parts of acts, or laws of this state in con-
2 flict with this act, are hereby repealed.

House Bill No. 175

(BY MR. BIVENS, by request.)

[Introduced January 19, 1921; referred to the Committee on the Judiciary.]

A BILL to prohibit profiteering and to provide punishment thereof.
Be it enacted by the Legislature of West Virginia:

No person firm or corporation shall collect or receive from any
2 other person firm or corporation an unreasonable profit on the
3 sale of any of the necessities of life. Necessities of life include
4 food of all kind, fuel used in the ordinary house-hold, and in any
5 manufacturing, transportation or other useful enterprises, and also
6 clothing, footwear and headwear.

7 A charge of over twenty-five per cent on the original net cost
8 plus the proper carrying charges, and the articles proper share of
9 the expenses of conducting the business shall be deemed an unrea-
10 sonable profit.

11 Any person firm or corporation violating the foregoing shall be
12 guilty of a misdemeanor and on conviction shall be fined not ex-
13 ceeding one thousand dollars.

House Bill No. 9

(BY MR. HALL of Wetzel.)

[Introduced January 17, 1921; referred to the Committee on Counties, Districts and Municipal Corporations.]

A BILL to amend and re-enact section one of chapter 47-a of
Barnes' code of West Virginia as last amended and re-enacted
by section one of chapter eight, acts of the legislature of one
thousand nine hundred and fifteen, second extraordinary ses-
sion, relating to the issuing of bonds by counties, cities, school
districts and municipal corporations.

Be it enacted by the legislature of West Virginia:

That section forty-seven-a of Barnes' code of West Virginia, as
last amended and re-enacted by section one, chapter eight, acts of
the legislature of one thousand nine hundred and fifteen, second

extraordinary session, be amended and re-enacted so as to read as follows:

Section 1. No county, city, school district or municipal corporation, except in cases where such corporation has already authorized bonds to be issued, shall hereafter be allowed to become indebted in any manner or for any purpose, to an amount, including existing indebtedness, in the aggregate, exceeding two and one-half per centum on the value of all taxable property therein; to be ascertained by the last assessment, for the state

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and county purposes, previous to the incurring of such indebtedness; nor, without at the same time providing for the collection of a direct annual tax to pay annually the interest on such debt and the principal thereof within and not exceeding thirty-four years.

Provided, however, that any county, magisterial district or group of magisterial districts, is hereby authorized and allowed to become indebted, notwithstanding anything in this act to the contrary, in an additional sum not to exceed two and one-half per centum on the value of the taxable property therein, ascertained as aforesaid, for the purpose of locating, grading, draining, paving and permanently improving the roads or highways and for the construction or repair of bridges therein, or the purchase of existing toll bridges. *Provided, further, however,* that any city or municipal corporation of five hundred inhabitants or more is hereby authorized and allowed to become indebted, notwithstanding anything in this act to the contrary, in an additional sum not to exceed two and one-half per centum on the value of taxable property therein, ascertained as aforesaid, for the purpose of grading, paving, sewerage and otherwise improving the streets and alleys of said city or municipal corporation. H. B. No. 9]

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ation; the term "sewerage" being used in a comprehensive sense so as to include mains, laterals, connections, traps, incinerating and disposal plants, and other necessary and convenient accessories to a modern, sanitary and efficient sewerage system; and, *provided, further,* that no debt shall be contracted under this section, unless all questions connected with the same shall have been first submitted to a vote of the people, and have received three-fifths of all the votes for and against the same, and, *pro-*

37 *vided, further*, that in all cases where like authority is given to
38 such cities or municipal corporations by their charters this sec-
39 tion shall not apply.

House Bill No. 357

(By MR. RAMSEY)

[Introduced January 24, 1921; referred to the Committee on Counties, Districts and Municipal Corporations.]

A BILL to change a portion of the boundary line between the counties of Greenbrier and Nicholas and to annex to Nicholas county a portion of Greenbrier county.

Be it enacted by the Legislature of West Virginia:

Section 1. That the boundary line between the counties of
2 Greenbrier and Nicholas be and the same is hereby changed in a
3 portion of its course and is located and established as follows:

4 Beginning at Meadow river on the line of Fayette county, and at
5 the present corner between said Greenbrier and Nicholas counties
6 and thence along the present division line between said Greenbrier
7 and Nicholas counties to the northern most corner of Meadow
8 Bluff district of said Greenbrier county, corner to Williamsburg
9 district of said county, thence with the division line between said
10 Meadow Bluff district and Williamsburg district, passing Beech
11 knob to Job's knob, thence leaving said district line and following
12 the main ridge of the mountain in an easterly direction to the top
13 of Cold knob, thence following the main ridge around the head of
14 the South Fork of Cherry river and between same and Spring

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15 creek waters to the corner of Pocahontas county, near the T. M.
16 Taylor place, thence in a northerly direction with the line between
17 Pocahontas and Greenbrier counties to the corner of Webster
18 county, thence with the present line between said counties of Web-
19 ster and Greenbrier to the present line between said counties of
20 Greenbrier and Nicholas at the north-east end of said line. And
21 the territory of the present county of Greenbrier lying north of the
22 division line hereby established and hereby included in the county
23 of Nicholas shall constitute and be a part of the county of Nich-
24 olas.

Sec. 2. The property situated and located in the territory here-
 2 by transferred from Greenbrier county to Nicholas county shall
 3 for the year one thousand nine hundred and twenty-one and there-
 4 after be assessed by the proper officers of said Nicholas county for
 5 the purposes of taxation and the tax levies thereon laid and col-
 6 lected by the same officers and for the same purposes as if this act
 7 had been passed and become effective prior to the first day of Jan-
 8 uary, one thousand nine hundred and twenty-one.

Sec. 3. and
 2 are hereby appointed commissioners to survey, locate and mark the
 3 lines designated in section one of this act, but in case of failure
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4 or inability of one of said commissioners to act the other shall ap-
 5 point some citizen of Nicholas county to fill the vacancy, who shall
 6 have the same powers and shall receive the same compensation as
 7 though directly appointed by this act. Being first duly sworn the
 8 said commissioners shall proceed as soon as practicable to survey
 9 and locate the said lines, and for this purpose shall employ a com-
 10 petent surveyor, who shall run and mark such lines as they may
 11 designate in accordance herewith, and who shall when the commis-
 12 sioners cannot agree decide between them.

13 The said surveyor shall make three fair outline maps or plats
 14 of said counties, showing their external boundaries as altered by
 15 the provisions of this act, also three written descriptions of the
 16 lines run by him under the direction of the commissioners, and
 17 shall deliver the same to the commissioners, who shall deliver one
 18 copy each of the maps or plats and written descriptions to the
 19 county clerk of the said counties of Greenbrier and Nicholas and
 20 to the secretary of state to be preserved and recorded in their re-
 21 spective offices.

22 For their services under this act the said commissioners and sur-
 23 veyor shall each receive the sum of six dollars per day to be paid

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 24 by the county court of said Nicholas county out of the county
 25 treasury.

House Bill No. 325

(BY MR. ROWAN.)

[Introduced January 24, 1921; referred to the Committee on the Judiciary.]

A BILL to amend section thirty-one of chapter five, workmens' compensation act.

Be it enacted by the Legislature of West Virginia:

Section 1. In case of injury resulting in partial disability, 2 the employee shall receive sixty-six and two-thirds per centum of 3 the impairment of his earning capacity during the continuance 4 thereof, not to exceed a maximum of twelve dollars per week, 5 nor a greater sum in the aggregate than thirty-seven hundred and 6 fifty dollars, and such compensation shall be in addition to the 7 compensation allowed to the claimant for the period of tempo- 8 rary total disability resulting from such injury. In cases included 9 in the following schedule, the disability in each case shall be 10 deemed to continue for the period specified and the compensation 11 so paid for such injury shall be as specified herein, and shall be 12 in addition to the compensation allowed to the claimant for the 13 period of temporary total disability resulting from such injury, 14 to-wit:

15 For the loss of a thumb, sixty-six and two-thirds per centum of 16 the average weekly wages during sixty weeks.

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17 For the loss of a first finger, commonly called index finger, 18 sixty-six and two-thirds per centum of the average wages during 19 thirty-five weeks.

20 For the loss of a second finger, sixty-six and two-thirds per 21 centum of the average weekly wages during thirty weeks.

22 For the loss of a third finger, sixty-six and two-thirds per 23 centum of the average weekly wages during twenty weeks.

24 For the loss of a fourth finger, commonly known as the little 25 finger, sixty-six and two-thirds per centum of the average wages 26 during fifteen weeks.

27 The loss of the second, or distal phalange, of the thumb shall 28 be considered to be equal to the loss of one-half of such thumb; 29 the loss of more than one-half of such shall be considered to be

30 equal to the loss of the whole thumb.

31 The loss of the third, or distal phalange, of any finger shall be
32 considered to be equal to the loss of one-third of such finger.

33 The loss of the middle, or second phalange, of any finger, shall
34 be considered to be equal to the loss of two-thirds of such
35 finger.

36 The loss of more than the middle and distal phalanges of any
37 finger shall be considered to be equal to the loss of the whole
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38 finger; *provided, however*, that in no case will the amount re-
39 ceived for more than one finger exceed the amount provided in
40 this schedule for the loss of a hand.

41 For the loss of the metacarpal bone (bones of the palm) for
42 the corresponding thumb, finger, or fingers as above, add ten
43 weeks to the number of weeks as above.

44 For ankylosis (total stiffness of) or contractures (due to scars
45 or injuries) which makes any of the fingers, thumbs or parts of
46 either more than useless, the same number of weeks apply to such
47 members or parts thereof as given above.

48 For the loss of a hand, sixty-six and two-thirds per centum of
49 the average weekly wages during one hundred and fifty weeks.

50 For the loss of an arm, sixty-six and two thirds per centum of
51 the average weekly wages during two hundred weeks.

52 For the loss of a great toe, sixty-six and two-thirds per centum
53 of the average weekly wages during thirty weeks.

54 For the loss of one of the toes other than the great toe, sixty-
55 six and two thirds per centum of the average weekly wages during
56 ten weeks.

57 The loss of more than two-thirds of any toe shall be considered
58 to be equal to the loss of the whole toe.

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59 The loss of less than two-thirds of any toe shall be considered
60 to be no loss.

61 For the loss of a foot, sixty-six and two-thirds per centum of
62 the average weekly wages during one hundred and twenty-five
63 weeks.

64 For the loss of a leg, sixty-six and two-thirds per centum of the
65 average weekly wages during one hundred and seventy-five
66 weeks.

67 For the loss of an eye, sixty-six and two-thirds per centum of
68 the average weekly wages during one hundred weeks.

69 For the permanent partial loss of sight of an eye, sixty-six
70 and two-thirds per centum of the average weekly wages for such
71 portion of one hundred weeks as the commissioner may, in each
72 case determine, based upon the percentage of vision actually lost
73 as a result of the casualty, but in no case shall an award of com-
74 pensation be made for less than a twenty-five per cent loss of
75 vision.

76 The amounts specified in this clause are all subject to the
77 limitation as to the maximum weekly amount payable as herein-
78 after specified in this section.

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Benefits for Disability.

80 Where compensation is due an employee under the provision of
81 this act, such compensation shall be as provided in the following
82 schedule:

83 If the injury causes temporary total disability, the employee
84 shall receive during the continuance thereof sixty-six and two-
85 thirds per centum of his average weekly earnings, not to exceed a
86 maximum of twenty dollars per week nor to be less than a mini-
87 mum of eight dollars per week.

House Bill No. 326

(BY MR. ROWAN)

[Introduced January 24, 1921; referred to the Committee on the
Judiciary.]

A BILL to abolish the office of state compensation commissioner and
establish a state board of awards to supervise the collection and
distribution of the funds collected under the workmen's com-
pensation law.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created a state liability board of
2 awards, to be composed of three members, not more than two of
3 whom shall belong to the same political party, to be appointed by
4 the governor, within thirty days after the passage of this act, one

6 member for four years and one member for the term of six
7 years. Vacancies shall be filled by appointment by the governor
8 for the unexpired term.

Sec. 2. Each member of the board shall devote his entire time
2 to the duties of his office and shall not hold any position of trust
3 or profit or engage in any occupation or business interfering or
4 inconsistent with his duty as member, or serve on or under any
5 committee of any political party.

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Sec. 3. Each member of the board shall receive an annual
2 salary of five thousand dollars, payable in the same manner as
3 salaries of state officers are paid.

Sec. 4. The board shall be in continuous session and open for
2 the transaction of business during all the business hours of each
3 and every day, excepting Sundays and legal holidays. All ses-
4 sions shall be open to the public, and shall stand and be adjourn-
5 ed without further notice thereof on its records. All proceed-
6 ings, of the board shall be shown on its records of proceeding,
6-a which shall be a public record, and shall contain a record
7 of each case considered, and the award made with respect there-
8 to, and all voting shall be had by the calling of each member's
9 name by the secretary and each vote shall be recorded as cast.

Sec. 5. A majority of the board shall constitute a quorum for
2 the transaction of business, and a vacancy shall not impair the
3 right of the remaining members to exercise all the powers of the
4 full board so long as a majority remains. Any investigation,
5 inquiry or hearing which the board is authorized to hold, or un-
6 dertake, may be held or undertaken by or before any one member
7 of the board. All investigations, inquiries, hearings and de-
8 cisions of the board, and every order made by a member thereof,
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9 when approved and confirmed by a majority of the members, and
10 so shown on its record of proceedings, shall be deemed to be the
11 order of the board.

Sec. 6. The board shall keep and maintain its main office in
2 the city of Charleston, and shall provide suitable rooms, necessary
3 office furniture, supplies, books, periodicals and maps for the
4 same. All necessary expense shall be audited and paid out of
5 the state treasury. It shall provide itself with a seal for the
6 authentication of its orders, awards, and proceedings, upon which
7 shall be inscribed the words.

8 *State Liability Board of Awards—State of West Virginia—*
9 *Official Seal.*

10 The board may hold sessions at any place within the state.

Sec. 7. The board may employ a secretary, actuaries, account-
2 ants, inspectors, examiners, experts, clerks, physicians stenograph-
3 ers, and other assistants, and fix their compensation.

4 Such employment and compensation shall be first approved by
5 the governor and shall be paid out of the state treasury. The
6 members of the board secretary, actuaries, accountants, inspec-
7 tors, examiners, experts, clerks, physicians, stenographers, and
8 other assistants that may be employed shall be entitled to receive

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9 from the state treasury their actual and necessary expenses while
10 traveling on the business of the board, and the members of the
11 board may confer and meet with officers of other states and offi-
12 cers of the United States on any matters pertaining to their offi-
13 cial duties. Such expenses shall be itemized and sworn to by the
14 person who incurred the expense and allowed by the board.

Sec. 8. The board shall adopt reasonable and proper rules to
2 govern its procedure, regulate and provide for the kind and
3 character of notices, and the services thereof, in cases of accident
4 and injury to employees, the nature and extent of the proofs and
4-a evidence, and the method of taking and furnishing the same, to
5 establish the right of benefits of compensation from the state
6 insurance fund, hereinafter provided for, the forms of application
7 of those claiming to be entitled to benefits or compensation there-
8 from, the method of making investigation, physical examinations
9 and inspections, and prescribe the time within which adjudica-
10 tions and awards shall be made.

Sec. 9. All acts and parts of acts inconsistent with this act are
2 hereby repealed.

House Bill No. 382

(By MR. WEISS, by request.)

[Introduced January 25, 1921; referred to the Committee on the
Judiciary.]

A BILL to amend and re-enact section seventeen of chapter one

hundred and forty-nine of Barnes' Code of one thousand nine hundred and sixteen, as enacted by chapter one hundred and twenty-three of the acts of the legislature of one thousand eight hundred and eighty-two relating to Sabbath breaking.

Be it enacted by the Legislature of West Virginia:

That section seventeen of chapter one hundred and forty-nine of Barnes' code of one thousand nine hundred and sixteen, as enacted by chapter one hundred and twenty-three of the acts of the legislature of one thousand eight hundred and eighty-two, be amended and re-enacted so as to read as follows:

Section 17. No forfeiture shall be incurred under the preceding section for the transportation on Sunday of the mail, or of passengers and their baggage, or for running any railroad train or steamboat on the Sabbath day, or for carrying fire-arms or shooting on that day, by any person having the right to do so under the laws of the United States or of this state; no forfeiture for laboring on the Sabbath day shall be incurred under the said section, by any person who conscientiously believes that the seventh

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day of the week ought to be observed as the Sabbath and actually refrains from all secular business and labor on that day provided he does not compel an apprentice or servant not of his belief to do secular work or business on Sunday, and does not on that day disturb any person in his observance to the same; and no forfeiture shall be incurred under said preceding section by any persons who shall maintain, operate or perform in any theater or opera house, or promote, conduct, or play in any base ball game on the Sabbath day, within the corporate limits of any city, whose population, as shown by the official census thereof for the year one thousand nine hundred and twenty, exceeds fifty thousand inhabitants. And no contract shall be deemed void because it is made on the Sabbath day.

House Bill No. 51

(BY MR. VEACH)

[Introduced January 17, 1921; referred to the Committee on Railroads.]

A BILL to promote the health, comfort and convenience of passengers traveling on interurban electric lines and street railways.

Be it enacted by the Legislature of West Virginia:

Section 1. That within six months after this act takes effect it shall be the duty of any company or persons operating electric lines and street railways over which passengers are carried in interurban or through cars a greater distance than fifteen miles to equip all such cars with suitable toilets for the accommodation and convenience of such passengers on such cars.

Sec. 2. It is hereby made the duty of the public service commission to see that the requirements of this act are complied with and to establish such necessary regulations as to the use of such toilets as will accommodate the traveling public to the highest degree and to prevent the unlawful use of the same while cars equipped with such toilets are being operated over the streets of cities, towns and villages.

House Bill No. 317

(BY MR. MANNING, by request)

[Introduced January 22, 1921; referred to the Committee on Railroads.]

A BILL to promote the health, comfort and convenience of passengers traveling on interurban electric lines and street railways.

Be it enacted by the Legislature of West Virginia:

Section 1. That within six months after this act takes effect it shall be the duty of any company or persons operating electric lines and street railways over which passengers are carried in interurban or through cars a greater distance than fifteen miles to equip all such cars with suitable toilets for the convenience and accommodation of such passengers on such cars.

Sec. 2. It is hereby made the duty of the public service commission to see that the requirements of this act are complied with and to establish such necessary regulations as to the use of such toilets as will accommodate the traveling public to the highest degree and to prevent the unlawful use of the same while cars equipped with such toilets are being operated over the streets of cities, towns or villages.

House Bill No. 472

(BY MR. STATHERS.)

[Introduced January 26, 1921; referred to the Committee on the Judiciary.]

Senate Bill No. 314

(BY MR. STEWART.)

[Introduced January 26, 1921; referred to the Committee on the Judiciary.]

A BILL to amend and re-enact sections one, eleven, twelve, thirteen and eighteen of chapter fifty-five-b of Barnes' code of one thousand nine hundred and sixteen; all relating to speculative securities.

Be it enacted by the Legislature of West Virginia:

That sections one, eleven, twelve, thirteen and eighteen of chapter fifty-five-b of Barnes' code of one thousand nine hundred and sixteen be amended and re-enacted so as to read as follows:

Section 1. That no person or persons mentioned in section six of this act, shall, as principal or agent, promote by advertisement, circular, prospectus, or any other form of public or general offering, inducement or persuasion, the issuance, transfer, distribution, sale or negotiation of any speculative securities, as hereinafter defined in section two of this act, nor shall any such person who shall have become the owner of such speculative securities for the purpose of re-selling the same to the public by means of advertisement, circulars, prospectus or solicitation of

10 salesmen, make any manner of general or public offering of sale of
11 such securities, unless prior thereto he, or they, shall have filed

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12 with the auditor of this state, duly verified by his, or their, oath
13 or affirmation and accompanied by a filing fee of twenty-five dol-
14 lars, a statement containing the following; *provided, however*, that
15 this section shall not apply to a *bona fide* offer directly made to
16 banks, bankers, brokers or trust companies who deal in such
17 securities: (a) A copy of the securities so to be promoted. (b) A
18 copy of the charter, or articles of association, and by-laws, and
19 such other information as may be necessary to establish the char-
20 acter of the promotion, and validity and value of the securities,
21 not otherwise referred to in this section. (c) A statement in
22 substantial detail of the assets and liabilities of the person or
23 company issuing such securities and of any company or person
24 guaranteeing the same, including specifically the total amount of
25 such securities and of any securities prior thereto in interest or
26 lien. (d) If such securities are secured by mortgage or other
27 lien, a copy of such mortgage or of the instrument creating such
28 lien, and a competent appraisal or valuation of the property cov-
29 ered thereby with a specific statement of all prior liens thereon,
30 if any. (e) A full statement of facts showing the gross and net
31 earnings, actual or estimated, of any person or company issuing
32 or guaranteeing such securities, or of any property covered by any
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33 such mortgage or lien. (f) All knowledge or information in the
34 possession of such promoter, relative to the character or value
35 of such securities, or of the property or earning power of the per-
36 son or company issuing or guaranteeing the same, including a
37 statement that such promoter has fully investigated the same
38 and believes the facts as stated to be reliable and true, with such
39 exceptions, if any, as may be stated. (g) A copy of any prospectus
40 or advertising matter which is to be used in connection with such
41 promotion. Such prospectus shall contain a clear and concise
42 statement of the amount of money estimated as necessary to carry
43 out the objects of the promotion; the price at which it is intended
44 to sell securities; the amount of promotion expense, commissions
45 and other overhead expenses contemplated, and the net amount
46 to be derived by the company from the sale of each share of stock,
47 bond, note, contract or other security, and no prospectus or other
48 advertising matter shall be used unless the same has been filed

49 hereunder. But in case no prospectus or advertising matter is
50 filed or used, a statement containing the information referred to
51 in this subsection shall be filed with the auditor. (h) The
52 names and addresses of any agents by or through whom any
53 securities are to be sold in this state, and no agent shall be em-

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54 played or act unless such statement with respect to them has been
55 filed hereunder. (i) The name and address of such promoter,
56 including the names and addresses of all partners, if the pro-
57 moter be a partnership, and the names and addresses of the direc-
58 tors or trustees (and of any and all persons owning ten per cen-
59 tum or more of the capital stock), if the promoter be a corpora-
60 tion or association.

61 Compliance by any person or persons mentioned in section six
62 of this act, with the provisions of this section, shall *ipso facto*
63 operate to ap point the auditor of this state as his, of their at-
64 torney in fact, irrevocable, for the specific purpose of receiving
65 service of notices and processes which may be issued against him
66 or them in any action arising out of the promotion, negotiation,
67 issuance, transfer, distribution, or sale by him, or them in this
68 state, of any of the speculative securities concerning which such
69 compliance is made, and the service of any such notice or process
70 on said auditor, or his acceptance or service endorsed thereon
71 shall be equivalent for all persons to, and shall be and constitute
72 due and legal notice of such notice or process upon any such
73 person or persons. Immediately after being served with or ac-
74 cepting any such process or notice, the auditor shall file a copy
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75 of such process or notice with a note thereon endorsed of the
76 time of service or acceptance, as the case may be, and transmit
77 such process or notice by registered mail to the head office of such
78 person or persons. Suits and actions may be commenced against
79 such person or persons in the proper court of any county in this
80 state in which a cause of action may arise or in which the plain-
81 tiff may reside.

Sec. 11. Any person or persons mentioned in section six of
2 this act, and operating within the scope of sections one and two
3 of this act, may appoint one or more agents, but no agent shall
4 act, or attempt to act for or in behalf of his principal, until he
5 shall have first registered with the auditor as such agent, and for

6 each registration, such person or persons shall pay to said auditor
7 a registration fee of five dollars. Such registration shall author-
8 ize the agent to represent such person or persons so registering
9 him until the first day of July following, unless the registration
10 thereto fore cancelled and recalled by such person or persons, or
11 by the auditor, for failure to comply with the provisions of this
12 act, authority for which revocation or cancellation is hereby given
13 to such person or persons and to said auditor. (Acts one thousand
14 nine hundred and thirteen, c. fifteen; one thousand nine hundred
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15 and fifteen, c. eighteen.)

Sec. 12. Every person, or persons mentioned in section six
2 of this act, and operating within the scope of sections one and
3 two of this act, shall file at the close of business on June thir-
4 teenth of each year, and at such other times as may be required
5 by the auditor, a sworn statement in such form as may be pre-
6 scribed and furnished by the auditor, setting forth his or their
7 financial condition, the amount of assets and liabilities, and such
8 other information as the auditor may require. Every regular
9 statement of June thirtieth shall be accompanied by a filing
10 provided with reference to the examination of insurance com-
11 refuse to file his or their regular statement within fifteen days
12 from said date, or to file any other special report herein provided
13 for within thirty days from receipt of request therefor, then the
14 right of such person or persons to transact business in this state
15 shall be deemed to be in abeyance during the continuance of such
16 delinquency.

Sec. 13. The auditor shall have general supervision and con-
2 trol over any person or persons mentioned in section six of this
3 act, residing or doing business in this state, engaged in securing
4 subscriptions for, or in the issuance, transfer, sale, promotion,
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5 negotiation or distribution of any speculative securities, and
6 every such person or persons shall be subject to examination by
7 said auditor, or by his duly authorized deputies, at any time he
8 may deem it advisable. The rights, powers and privileges of the
9 auditor in making such examinations shall be the same as now
10 provided with reference to the examination of insurance com-
11 panies by the insurance commissioner, and such person or persons
12 shall pay the expense of such examination, and their failure or

13 refusal to pay upon the demand of the auditor shall work a for-
14 feiture of their right to do business in the state. Upon com-
15 plaint of any person that any of the provisions of this act has
16 been violated, it shall thereupon become the duty of the auditor
17 to immediately investigate such complaint and if upon such in-
18 vestigation it would appear that this act has been violated in any
19 manner, then the auditor shall diligently proceed to enforce the
20 provisions of this act in the manner hereinafter provided in section
21 fifteen of this act.

Sec. 14. All expenses and fees here provided for shall be col-
2 lected by the auditor and shall be accounted for and turned into
3 the state treasury, and the amount of expenses and fees so turned
4 into the state treasury are hereby re-appropriated to the said
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5 auditor and such amount together with any appropriations that
6 may be made shall be expended, or such part thereof as may be
7 necessary, for the purpose of carrying this act into effect; and
8 the said auditor is hereby authorized to appoint such additional
9 investigators and assistants, not to exceed five in all, as may be
10 necessary to carry this act into full force and effect. All money
11 actually and necessarily paid out, or any expenses incurred by the
12 said auditor or any investigator or assistant under his direction,
13 under this act, shall be paid by the state treasurer out of such
14 sums for expenses and fees received under this act and any other
15 appropriations made for the purpose, upon the state auditor's
16 warrant, to be issued upon vouchers containing an itemized ac-
17 count of the salaries or expenses for which the same are used.
18 All expenses and fees which have been collected by the auditor
19 under the provisions of chapter fifteen of the acts of one thousand
20 nine hundred and thirteen, and now remaining in the state treas-
21 ury, are hereby appropriated to the said auditor for the pur-
22 poses of this act.

House Bill No. 373

(By MR. McCLINTIC, of Kanawha.)

[Introduced January 24, 1921; referred to the Committee on the Judiciary.]

A BILL to amend and re-enact section one, chapter eighty-five of the code of West Virginia, Barnes' edition one thousand nine hundred and sixteen, relating to the appointment of personal representatives.

Be it enacted by the Legislature of West Virginia:

That section one of chapter eighty-five of the code of West Virginia, Barnes edition, one thousand nine hundred and sixteen, be amended and re-enacted so as to read as follows:

Powers of Executor Before Qualifying; Filing List of Distributees.

Section 1. A person appointed by a will executor thereof, shall not have the powers of executor until he qualify as such by taking an oath and giving bond before the county court in which the will, or an authenticated copy thereof is admitted to record, or before the clerk thereof in vacation, except that he may provide for the burial of the testator, pay reasonable funeral expenses and preserve the estate from waste. At the time of the qualification of the executor of any estate, as provided by this chapter, he shall file his own affidavit, or the affidavit of some credible person, showing the names of the distributees of said estate, their post

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office address and their relation to the decedent. If two or more executors or executrices be named in any will and one or more, but not all, of the parties named, die or refuse to qualify and give bond, or if, after having qualified, one or more, but not all of the persons named and qualifying shall die resign, or be removed, the court having jurisdiction of the probate of the will shall fill the vacancy or vacancies caused by the failure and refusal to qualify death, resignation or removal, of the parties, so that the will shall be administered by the number of persons named therein as executors or executrices, who shall be entitled executors or executrices as the case may be. The court in filling such vacancies shall give preference to individuals in the order in which they are entitled to administer an estate under section

24 four of said chapter. This act shall apply to the estates and
25 wills of persons who have died and the vacancies that now exist
26 caused by the death, resignation or removal of the executor or
27 executrix as well as of the estates of persons who shall here-
28 after die leaving wills in which executors or executrices are named.

House Bill No. 532

(BY MR. LYTTLETON.)

[Introduced January 26, 1921; referred to the Committee on
Counties, Districts and Municipal Corporations.]

A BILL relating to the salaries of county officers in Fayette county.
Be it enacted by the Legislature of West Virginia:

Section 1. That the salary of the prosecuting attorney of
2 Fayette county shall be four thousand (\$4,000.00) dollars in
3 lieu of three thousand (\$3,000.00) dollars. The salary of the
4 county clerk shall be four thousand (\$4,000.00) dollars in lieu
5 of three thousand (\$3,000.00) dollars. The salary of the cir-
6 cuit clerk shall be four thousand (\$4,000.00) dollars in lieu of
7 three thousand (\$3,000.00) dollars.

Sec. 2. All acts and parts of acts in conflict herewith are
2 hereby repealed.

House Bill No. 173

(BY MR. HOWARD)

[Introduced January 19, 1921; referred to the Committee on the
Judiciary.]

A BILL to amend and re-enact section five chapter fifty-eight Barnes'
code of one thousand nine hundred and eighteen relating to in-
sane persons.

Be it enacted by the Legislature of West Virginia:

That section five, chapter fifty-eight, Barnes' code, of one thousand
nine hundred and eighteen be amended and re-enacted so as to read as
follows:

Section 5. If any resident of a county suspect any person therein, to be a lunatic, he may make complaint under oath to the clerk of the county court, giving such information and stating such facts therein as may be required, and deliver the same to the clerk of the county court, whose duty it shall be to issue a warrant ordering the person so suspected and named in such complaint to be brought before the commission at a time and place named therein, that his sanity may be inquired into. A complaint hereunder may be made before any justice of the peace of the county but, when so made, the justice shall issue his warrant returnable before the commission at a time and place named therein, and said justice shall immediately notify the clerk of the county court stating the

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fact of the issuance of such warrant and stating the time at which it is made returnable before the commission. Any member of the commission without such complaint may have such warrant issued for any person found in his county whom he shall suspect to be a lunatic. All such warrants shall be signed by the clerk of the county court, or by a justice of the peace, as the case may be; and may be addressed to the sheriff of the county or any constable of any district thereof, or to a special constable appointed for the purpose and named therein; but if any relative or friend of the person so suspected will serve such warrant and cause such suspected person to be brought before the commission, he may be allowed to do so. All meetings of the commission shall be held at the county-seat, unless it shall be thought best by the commission to meet at some other place, as in the case of an insane person whose condition makes it advisable to meet at or near his residence. The officer or person to whom the warrant is addressed shall take the suspected person into his custody and bring him before the commission at the time and place named therein. Before proceeding with the hearing of such suspected person, the commission shall appoint a guardian *ad litem* for him, who shall be present at the hearing and manage the case on behalf of the person suspected. Such witnesses as shall appear necessary shall be summoned by the commission to testify in the hearing, whether the warrant be issued by the clerk of the court or by a justice of the peace. Among the witnesses there shall be included two reputable physicians, duly authorized to practice medicine in this state, who

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39 shall separately make a physical examination of the suspected per-
40 son, and each physician shall make out a certificate of the result of
41 such examination in the form required by the state board, which
42 certificate shall be sworn to by the physician, and shall be consid-
43 ered as evidence by the commission. The substance of the evidenc
44 of such witnesses shall be reduced to writing. If the commission
45 finds as a result of the hearing that the person suspected is a lu-
46 natic and should be confined in a hospital, and that he is not a rea-
47 ident of another county of this state, they shall order him to be
48 committed to the nearest hospital unless some relative or friend of
49 such person will agree to take care of him, in which case the com-
50 mission may deliver him to such person and take from such relative
51 or friend a bond in the penalty of five hundred dollars, with suffi-
52 cient security to be approved by the commission, payable to the
53 state of West Virginia, with condition to restrain and take proper
54 care of such insane person until the cause of confinement shall

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55 cease, or until he is delivered to the commission to be proceeded
56 against according to law; but if the person found to be a lunatic is
57 not dangerous to himself, or to the lives or property of others, or
58 is found harmless and insuable, he may be delivered to any rela-
59 tive or friend who will agree to take proper care of him, without
60 such bond, if in the judgment of the commission in any case the
61 same may be proper.

House Bill No. 143

(By MR. ALESHIRE.)

[Introduced January 19, 1921; referred to the Committee on the Judiciary.]

A BILL to amend and re-enact section fourteen of chapter sixty-three of Barnes' code of West Virginia, of one thousand, nine hundred and sixteen, relating to the issuance of marriage licenses.

Be it enacted by the Legislature of West Virginia:

That section fourteen of chapter sixty-three of Barnes' code of West Virginia, of one thousand, nine hundred and sixteen, be amended and re-enacted so as to read as follows:

Section 14. It shall be the duty of every clerk of every county court issuing a marriage license, to ascertain from the party obtaining the same, and to make a record thereof, and to show upon the face of said license before delivering the said license, as near as may be, the full names of both parties, their respective ages and their places of birth and residence and whether single, widowed or divorced. Such license shall be signed by the clerk of said court, and shall be in the following form, *mutatis mutandis*:

STATE OF WEST VIRGINIA,
COUNTY OF....., to-wit:
To any person licensed to celebrate marriages:

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You are hereby authorized to join together in the holy state of matrimony, according to the rites and ceremonies of your church or religious denomination and the laws of the state of West Virginia,..... and.....

Given under my hand, as clerk of the county court of the county of....., this..... day of.....

The clerk of the county court, at the time of issuing the licenses, shall make a complete record, in a well bound book, of all matters in this section requiring to be ascertained by him. The minister or other person celebrating such marriage shall, within sixty days thereafter, return the said license to the office whence it issued, with an endorsement thereon of the facts of such marriage and the time and place of celebrating the same.

House Bill No. 369

(BY MR. HALL, of Mingo.)

[Introduced January 24, 1921; referred to the Committee on Taxation and Finance.]

House Bill No. 369

A BILL to fix the salary of the sheriff of Mingo county and the time and manner of the payment of the same.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Mingo county, West Virginia, shall allow and pay to the sheriff thereof, out of the treasury of said county, an annual salary of five thousand dollars, which salary shall be paid monthly in the same manner that the salaries of other county officers are paid.

All acts and parts of acts inconsistent herewith are hereby repealed.

House Bill No. 94

(BY MR. CUMMINGS)

[Introduced January 19, 1921; referred to the Committee on Counties, Districts and Municipal Corporations.]

A BILL fixing the compensation of the clerk of the circuit court of Lincoln county.

Be it enacted by the Legislature of West Virginia:

Section 1. That the salary of the clerk of the circuit court of Lincoln county be and the same is hereby fixed at the sum of twenty-five hundred dollars per annum, effective from and after the first day of January, one thousand nine hundred and twenty-one.

Sec. 2. All acts and part of acts inconsistent with this act are hereby repealed.

House Bill No. 101

(BY MR. HUNTER.)

[Introduced January 19, 1921; referred to the Committee on Counties, Districts and Municipal Corporations.]

A BILL to fix the salary of the prosecuting attorney and assistant prosecuting attorney of Raleigh county, and prescribing the method in which the same shall be paid.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Raleigh county, West Virginia, shall allow and pay the prosecuting attorney thereof, out of the treasury of said county, an annual salary of not less than three thousand three hundred dollars (\$3,300.00) and not exceed four thousand dollars (\$4,000.00), which salary shall be paid monthly in the same manner that the salaries of other county officers are paid.

Sec. 2. The county court of said county shall allow and pay to the assistant prosecuting attorney thereof, out of the treasury of said county, an annual salary of not less than fifteen hundred dollars (\$1,500.00) and not exceeding two thousand dollars (\$2,000.-00), which salary shall be paid monthly in the same manner that the salaries of other county officers are paid.

All acts and parts of acts inconsistent of this act are hereby repealed.

House Bill No. 427

(By MR. HINER.)

[Introduced January 25, 1921; referred to the Committee on the Judiciary.]

A BILL to amend and re-enact section nineteen of chapter one hundred and twelve-a Barnes' code, edition one thousand nine hundred and eighteen, relating to time of holding terms of circuit court.

Be it enacted by the Legislature of West Virginia:

That section nineteen of chapter one hundred and twelve-a Barnes' code, edition one thousand nine hundred and eighteen, be amended and re-enacted so as to read as follows:

Section 19. For the county of Hampshire, on the first Tuesday in January, the first Tuesday in March, and the third Tuesday in September. For the county of Hardy, on the third Tuesday in February, the third Tuesday in June, and the third Tuesday in October. For the county of Pendleton, on the third Tuesday in March, the fourth Tuesday in July, and the first Tuesday in December.

House Bill No. 288

(BY MR. HEAVENER.)

[Introduced January 21, 1921; referred to the Committee on the Judiciary.]

A BILL to amend and re-enact section one-i of chapter one hundred and thirty-two of the acts of the legislature of the state of West Virginia, one thousand nine hundred and nineteen, relating to the time for holding the circuit court for the ninth judicial circuit, composed of the counties of McDowell, Mercer and Monroe.

Be it enacted by the Legislature of West Virginia:

That section one-i of the acts of the legislature of West Virginia, one thousand nine hundred and nineteen be amended to read as follows:

For the county of McDowell on the second Tuesday in February,
2 the second Tuesday in June and the second Tuesday in September.
3 For the county of Mercer, on the second Tuesday in May, the
4 second Tuesday in August, and the fourth Tuesday in November.
5 For the county of Monroe, on the second Tuesday in March, the
6 second Tuesday in July, and the second Tuesday in November.

House Bill No. 494

(BY MR. SATTERFIELD, BY REQUEST.)

[Introduced January 26, 1921; referred to the Committee on the Judiciary.]

A BILL to authorize the employment of a stenographer for the use of the prosecuting attorney of Marion county, and to fix the time and manner of payment of the salary.

Be it enacted by the Legislature of West Virginia:

Section 1. The prosecuting attorney of Marion county be and
2 is hereby authorized to employ a stenographer to assist him in the
3 discharge of his official duties; whose salary shall be twelve hun-
4 dred dollars per annum, payable monthly in the same manner that
5 the salaries of other county officers are paid.

House Bill No. 323

(By MR. HAYS)

[Introduced January 24, 1921; referred to the Committee on the Judiciary.]

Senate Bill No. 212

(By MR. SHACKLEFORD)

[Introduced January 24, 1921; referred to the Committee on the Judiciary.]

A BILL to amend and re-enact section forty-four, chapter one hundred thirty-seven of Barnes' code of one thousand nine hundred sixteen as amended and re-enacted by chapter seventy-four of the acts of the legislature of West Virginia of one thousand nine hundred nineteen, relating to the salaries of county officers for Gilmer county, West Virginia.

Be it enacted by the Legislature of West Virginia:

That section forty-four (44) of chapter one hundred thirty-seven (137) of Barnes' code of one thousand nine hundred and sixteen, as amended and re-enacted by chapter seventy-four (74) of the acts of the legislature of West Virginia, of one thousand nine hundred nineteen, be amended and re-enacted so as to read as follows:

Section 44. The annual compensation of the sheriff in Gilmer county shall be three thousand dollars (\$3,000) per annum with one deputy whose salary shall be fifteen hundred dollars (\$1,500) per annum. The annual compensation of the prosecuting attorney in and for the said county shall be eighteen hundred dollars (\$1,800) per annum. The annual compensation of the clerk of the county court in and for the said county shall be thirty-six hun-

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dred dollars (\$3,600) per annum with one deputy whose salary shall be fifteen hundred dollars (\$1,500) per annum. The annual compensation of the clerk of the circuit court in and for the said county shall be twenty-four hundred dollars (\$2,400) per annum with one deputy whose salary shall be twelve hundred dollars (\$1,200) per annum. The annual compensation for the assessor of the said county shall be fifteen hundred dollars (\$1,500) per annum with one office deputy at twelve hundred dollars (\$1,200) per annum and three assistant deputies at six hundred dollars

17 (\$600) each per annum, and the said salaries shall be in lieu of
18 all fees, costs, penalties, percentatges, allowance, and all other pre-
19 requisites of whatever character and kind which any of the officers
20 herein named may now or hereafter collect or receive except as
21 hereinafter provided, and said salaries shall be paid to said county
22 officers in the same manner and same ttmes as they are now paid.
23 All acts or parts of acts in conflict with this act are hereby re-
24 pealed.

House Bill No. 114

(BY MR. BROWN.)

[Introduced January 19, 1921; referred to the Committee on
Counties, Districts and Municipal Corporations.]

A BILL to fix the salaries of the offices of sheriff, clerk of the county
court, clerk of the circuit court and of the prosecuting attorney
of Hancock county.

Be it enacted by the Legislature of West Virginia:

Section 1. That the salary of the office of sheriff of Hancock
2 county be and the same is hereby fixed at the sum of two thousand
3 five hundred dollars per year.

Sec. 2. That the salary of the office of clerk of the county
2 court of Hancock county be and the same is hereby fixed at the
3 sum of two thousand two hundred dollars per year.

Sec. 3. That the salary of the office of the clerk of the circuit
2 court of Hancock county be and the same is hereby fixed at the
3 sum of one thousand five hundred dollars per year.

Sec. 4. That the salary of the office of prosecuting attorney of
2 Hancock county be and the same is hereby fixed at the sum of
3 one thousand eight hundred dollars per year.

Sec. 5. All acts and parts of acts inconsistent or in conflict
2 herewith are hereby repealed.

House Bill No. 390

(BY MR. MOORE, of Pocahontas.)

[Introduced January 25, 1921; referred to the Committee on the Judiciary.]

A BILL to fix the compensation of the prosecuting attorney of Pocahontas county and to prescribe the time of payment.

Be it enacted by the Legislature of West Virginia:

The annual compensation of the prosecuting attorney of Pocahontas county shall be eighteen hundred dollars, payable monthly out of the county treasury.

All acts or parts of acts in conflict herewith are hereby repealed.

House Bill No. 313

(BY MR. MOORE, of Pocahontas, by request.)

[Introduced January 22, 1921; referred to the Committee on the Judiciary.]

A BILL to fix the compensation of the clerk of the county court of Pocahontas county, and fix the time of payment thereof.

Be it enacted by the Legislature of West Virginia:

That the annual compensation of the clerk of the county court of Pocahontas county shall be twenty-five hundred dollars, payable quarterly at the end of each quarter out of the county treasury, the same to be in lieu of all fees, costs, penalties, percentages, allowances and all other perquisites of whatever kind received by him.

All acts or parts of acts in conflict with this act are hereby repealed.

House Bill No. 421

(BY MR. TERRILL, by request.)

[Introduced January 25, 1921; referred to the Committee on the Judiciary.]

A BILL to fix the salaries of the sheriff, county clerk and circuit clerk of Wayne county and fixing the time and manner of the payments of the same and repealing all acts and parts of acts inconsistent with this act.

Be it enacted by the Legislature of West Virginia:

Section 1. That the salary of the office of sheriff of Wayne county be and the same is hereby fixed at the sum of three thousand and dollars per year.

Sec. 2. That the salary of the office of county clerk of Wayne county be and the same is hereby fixed at the sum of two thousand and seven hundred and fifty dollars per year.

Sec. 3. That the salary of the office of circuit clerk of Wayne county be and the same is hereby fixed at the sum of two thousand and four hundred dollars per year.

Sec. 4. That the salaries above fixed shall be paid monthly in the same manner out of the county treasury that all salaries of other county officers are paid.

Sec. 5. All acts and parts of acts inconsistent herewith are repealed.

House Bill No. 272

(BY MR. HILLEARY)

[Introduced January 21, 1921; referred to the Committee on the Judiciary.]

A BILL to amend and re-enact section twelve of chapter eighty-three of the acts of the legislature of the year one thousand nine hundred and fifteen, relating to the salary of the prosecuting attorney of Upshur county.

Be it enacted by the legislature of West Virginia

That section twelve of chapter eighty-three of the acts of the legislature of the year one thousand nine hundred and fifteen, be amended and re-enacted so as to read as follows:

Section 1. The annual compensation of the prosecuting attorney shall be two thousand dollars.

Sec. 2. Section twelve, of chapter eighty-three, of the acts of the legislature of the year one thousand nine hundred and fifteen, relating to the salaries of the officers mentioned in section one, in so far as the same is in conflict herewith is hereby repealed.

This act shall take effect June first, one thousand nine hundred and twenty-one.

House Bill No. 267

(BY MR. FOUT.)

[Introduced January 21, 1921; referred to the Committee on the Judiciary.]

A BILL fixing the annual allowance of the prosecuting attorney of the county of Grant.

Be it enacted by the Legislature of West Virginia:

That the county court of Grant county shall annually allow to the prosecuting attorney of said county, as salary for his services, the sum of one thousand dollars, payable monthly out of the county treasury.

All acts and parts of acts inconsistent with this act, are hereby repealed.

House Bill No. 229

(BY MR. BISER.)

[Introduced January 20, 1921; referred to the Committee on Counties, Districts and Municipal Corporations.]

A BILL fixing the salary of the sheriff and prosecuting attorney of Morgan county, West Virginia.

Be it enacted by the Legislature of West Virginia:

Section 1. After January first, one thousand nine hundred and twenty-one, the salary of the sheriff of Morgan county shall be two thousand dollars per year, and the salary of the prosecuting attorney shall be twelve hundred dollars per year.

All acts, or parts of acts, inconsistent herewith, are hereby repealed.

House Bill No. 11

(By MR. HALL, of Wetzel)

[Introduced January 17, 1921; referred to the Committee on the Judiciary.]

A BILL to fix the salary of the prosecuting attorney of Wetzel county, and fixing the time and manner of the payment of the same, repealing all acts and parts of acts inconsistent with this act.

Be it enacted by the Legislature of West Virginia:

The county court of Wetzel county, West Virginia, shall allow and pay to the prosecuting attorney thereof, out of the treasury of said county, an annual salary of two thousand dollars, which salary shall be paid monthly in the same manner that the salaries of other county officers are paid.

All acts and parts of acts inconsistent with this act are hereby repealed.

House Bill No. 17

(By MR. WEISS)

[Introduced January 17, 1921; referred to the Committee on the Judiciary.]

A BILL to fix the salary of the prosecuting attorney of Ohio county.

Be it enacted by the Legislature of West Virginia:

Section 1. The salary of the office of the prosecuting attorney of Ohio county shall be and the same is hereby fixed at the sum of five thousand dollars, to be paid in monthly installments, the same as other officers.

Sec. 2. All acts or parts of acts inconsistent with this act are hereby repealed.

House Bill No. 205

(By MR. MOORE, of Marshall)

[Introduced January 20, 1921; referred to the Committee on the Judiciary.]

A BILL to amend and re-enact section twelve of chapter eighty-three of the acts of the legislature of the year one thousand nine hundred and fifteen, relating to the salaries of the sheriff, clerk of the county court, clerk of the circuit court and prosecuting attorney of Marshall county, West Virginia.

Be it enacted by the Legislature of West Virginia:

That section twelve of chapter eighty-three of the acts of the legislature of the year one thousand nine hundred and fifteen, be amended and re-enacted so as to read as follows:

Section 1. The annual compensation of the sheriff shall be four thousand eight hundred dollars, the county clerk, three thousand six hundred dollars, the circuit clerk, three thousand dollars, and the prosecuting attorney, two thousand four hundred dollars.

Sec. 2. Section twelve of chapter eighty-three of the acts of the legislature of the year one thousand nine hundred and fifteen, relating to the salaries of the officers mentioned in section one, in so far as the same is in conflict herewith is hereby repealed.

House Bill No. 333

(BY MR. MIDELBURG)

[Introduced January 24, 1921; referred to the Committee on Counties, Districts and Municipal Corporations.]

A BILL fixing the annual compensation of the clerk of the county court and the clerk of the circuit court (or clerk of the circuit, court of common pleas and criminal or intermediate courts) in counties with a population exceeding one hundred thousand.

Be it enacted by the Legislature of West Virginia:

Section 1. That the annual compensation of the clerk of the
2 county court and clerk of the circuit court (or clerk of the circuit
3 court, court of common pleas and criminal or intermediate courts)
4 in counties with a population exceeding one hundred thousand, ac-
5 cording to the last preceeding official census, shall be as follows:
6 For the clerk of the county court, six thousand dollars: For the
7 clerk of the circuit court (or clerk of the circuit court, court of
8 common pleas and criminal or intermediate courts) six thousand
9 dollars.

Sec. 2. All acts and parts of acts in conflict with this act are
2 hereby repealed.

House Bill No. 185

(BY MR. DAVIS, of Taylor.)

[Introduced January 20, 1921; referred to the Committee on Counties, Districts and Municipal Corporations.]

A BILL to empower the judge of the circuit court for the nineteenth judicial circuit to employ a competent official reporter, defining his duties, the uses to which the records made by him may be put, fixing his salary and providing for the manner of its payment, and the fees that may be charged for his services.

Be it enacted by the Legislature of West Virginia:

Section 1. The circuit court of the nineteenth judicial cir-
2 cuit or the judge thereof in vacation, is hereby empowered and
3 authorized to employ and appoint a competent stenographer to
4 take and report the proceedings had and the testimony given in

5 any case, either civil or criminal, or in any other proceeding had
6 in said court, including the taking of testimony before the grand
7 jury of said court for the use of the prosecuting attorney of said
8 court, and proceedings before the judge of said court in vacation.
9 Said stenographer shall be authorized to attend the sessions of
10 the grand jury held in said circuit, but shall retire from said ses-
11 sion when directed by the foreman or a majority of the grand jury
12 or ordered to do so by the court, and when the grand jury de-
13 sires to consult or vote upon any matter before them. Said ap-

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14 pointment and employment of such stenographer shall be at the
15 pleasure of the judge and may be made by an order entered of
16 record in said court, and the stenographer so appointed shall be
17 designgated as the "official reported of the nineteenth judicial
18 circuit." He shall be under the control and direction of the
19 judge and shall be duly qualified under oath.

Sec. 2. It shall be the duty of such reporter to take full short
2 hand notes of the testimony and proceedings in which his services
3 may be required and such notes shall be deemed and held to be
4 official and the best authority in any matter in dispute, and a copy
5 of the same written out in long hand or in typewriting, made as
6 herein provided, shall be used by the parties to the cause and in
7 any further proceedings therein in which the use of the same
8 may be required. It shall be the duty of the said official re-
9 porter to furnish a copy of his notes written out in long hand or
10 typewriting of the testimony and proceedings in any cause upon
11 the request of the judge, and in criminal cases, upon the request
12 of the prosecuting attorney, without charge, the copy to be filed
13 in the clerk's office.

Sec. 3. Said official reporter shall receive for his services as
2 such court reporter, the sum of eighteen hundred dollars per year,
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3 nine hundred dollars of which shall be paid quarterly by the coun-
4 ty court of Barbour county out of the county treasury, and the
5 remaining nine hundred dollars shall be paid quarterly by the
6 county court of Taylor county out of the county treasury. All
7 fees for services rendered in each of the above named counties by
8 the official reporter in the discharge of his duties as such, to the
9 amount of nine hundred dollars per year for each county, shall,
10 when collected by the sheriff or said reporter, be paid into the
11 treasury of the county in which the services were rendered; and

12 all sums in each county in excess of said amount may be retained
13 by said reporter, and it shall be the duty of such reporter to make
14 out, sign and deliver to the sheriff, a fee bill in every case, giving
15 the style thereof and the amount due, and from whom, which
16 amount may be collected or levied for by the sheriff, and such
17 fee bill shall have the force and effect of an execution when levied.

Sec. 4. In all cases, civil or criminal, the court shall allow
2 such charges and fees as may seem just for taking the short hand
3 notes. All such charges and fees, in any case, civil or criminal,
4 shall be taxed by the clerk as costs, and shall be collected by the
5 sheriff in civil and misdemeanor cases and accounted for by him
6 to the county treasury. Such costs in felony cases shall be cer-

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7 tified to the auditor of the state and paid out of the state treasury,
8 but when collected by the sheriff, shall be accounted for by him to
9 the state treasurer. The expense of reporting any civil case shall
10 be paid equally by the parties to the cause, plaintiff and defendant,
11 but the expenses so paid by the prevailing party shall be taxed
12 as part of his costs and recovered by him from his adversary.

Sec. 5. Said official reporter shall furnish, upon request, to
2 any party to a case, a copy of the testimony or other proceeding,
3 written out in long hand or typewriting, and shall certify the same
4 as being correct, and shall collect therefor a fee of twenty cents
5 for each one hundred words, but not to exceed forty cents for
6 each page so transcribed and certified. The official reporter
7 shall not deliver any record or testimony transcribed by him,
8 until the fees mentioned in this section are paid, which fees shall
9 be accounted for and paid over to the sheriff of the county in
10 which the case was pending, and by him accounted for. A copy
11 of such testimony or proceeding, when certified by the official re-
12 porter and by the judge of said court shall be authentic for all
13 purposes and may be used in making up the records on appeal,
14 and the circuit clerk shall not be entitled to collect any fee for that
15 part of the record in any case wherein the testimony or proceed-
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16 ings so furnished and certified by said official reporter shall be
17 used in said record.

Sec. 6. Said official reporter is hereby authorized to take affi-
2 davits, and the acknowledgment of deeds and other writings, and
3 to take and certify depositions within the counties embraced in the
4 nineteenth judicial circuit, and to administer all oaths necessary

5 in performing any of the foregoing acts, for which he shall be
6 entitled to the same fees as a notary public for such services, *pro-*
7 *vided*, when taking depositions to be used in any cause, he shall be
8 entitled to charge therefor twenty cents for each one hundred
9 words, but not more than forty cents per page, in addition to the
10 other incidental fees. All fees earned under this section shall
11 belong to said official reporter.

Sec. 7. So far as any act or part of any act of the legislature
2 is inconsistent with this act or any of its provisions they shall not
3 be applicable to the judge of the nineteenth judicial circuit, nor to
4 said official reporter.

N. B.

COMMITTEE SUBSTITUTE FOR

House Bill No. 179

(BY COMMITTEE ON COUNTIES, DISTRICTS AND MUNICIPAL CORPO-
RATIONS.)

[Reported April 14, 1921, with the recommendation that it do
pass.]

House Bill No. 179

A BILL to amend and re-enact the act of the legislature of West Vir-
ginia, passed on the sixth day of February, one thousand nine
hundred and seventeen, relating to the amendment of the char-
ter of the city of Princeton, in the county of Mercer.

Be it enacted by the Legislature of West Virginia:

That the charter of the city of Princeton, in the county of Mercer,
as amended and re-enacted by an act of the legislature of West Vir-
ginia, passed on the sixth day of February, one thousand nine hundred
and seventeen, be and the same is hereby amended and re-enacted so
as to read as follows:

Section 1. That the inhabitants of so much of the county of Mercer, in the state of West Virginia, included in the boundaries described in section two of this act, be and they are hereby to remain and continue a municipal corporation by the name of "The City of Princeton" by which name they shall have perpetual succession and a common seal, and by which name they may sue and be sued, plead and be impleaded, contract and be contracted with, purchase and otherwise acquire and hold real estate and personal

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property needed in the discharge of the functions of government conferred by this charter.

Corporate Limits

Sec. 2. The corporate limits of the city of Princeton shall be as follows, that is to say: Beginning at the bridge where the Raleigh and Kanawha turnpike crosses Glady fork, and running thence down Glady fork to Brush creek; thence down Brush creek to the mouth of Broad Camp branch; thence due east, crossing the center line of the Deepwater railroad, as shown by the map and profile of the location of said road filed in the office of the clerk of the county court of Mercer county, West Virginia, on the twenty-third day of March, one thousand nine hundred and four, to a point fifty feet beyond the said center line at right angles thereto; thence parallel to the center line of the location of said railroad as shown upon said map, and fifty feet distant therefrom to Christian's fork, which is a point eastward from the residence of William Oliver; thence eastwardly to the Carr and Bratton cattle scales on the old Pisgah road and including the said scales; thence northwesterly, in a straight line, to two large and old willow trees by an abandoned spring by the side of an old house-seat in an old apple orchard, which point is up a hollow in an eastern direction

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28 residence of I. W. Walker, now owned by W. B. Honaker, and in-
 29 cluding the same within the corporate limits, to Gladys fork; thence
 30 down Gladys fork to the point of beginning.

Wards and their Boundaries.

Sec. 3. The said city of Princeton shall consist of three wards,
 2 which shall be bounded as follows:

3 *First Ward.*

4 All the following described boundary shall constitute the first
 5 ward of the said city, that is to say: Beginning at a point on
 6 the corporate limits of said city in the center of the bridge over
 7 Brush creek on the road leading from Princeton to Ingleside;
 8 thence in a northern direction and with said Ingleside road to

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9 the center of Princeton avenue; thence with the center of said
 10 Princeton avenue, in a western direction, to the intersection of
 11 the center line of said avenue, with the center line of Fellers
 12 street; thence with the center of Fellers street, in a northern direc-
 13 tion to its intersection with the center line of Main street;
 14 thence with the center line of Main street, in a northeast direction
 15 to the intersection with the center line of Center street, thence
 15-a with the center line of Center street, in a western direction
 16 to its intersection with the center line of Hale avenue; thence
 17 with the center line of Hale avenue, in a northern direction, to the
 18 corporate line; thence with the corporate line, in a western di-
 19 rection and southwestern direction, to Gladys fork; thence down
 20 Gladys fork to Brush creek; thence down Brush creek to the point
 21 of beginning.

22 *Second Ward.*

23 All the following described boundary shall constitute the sec-
 24 ond ward of said city: that is to say: beginning at the beginning
 25 corner of the first ward, at a point in the center of the bridge
 26 across Brush creek, on the Ingleside road; thence down Brush creek;
 27 in a northwest direction, to the railroad bridge across Brush creek
 28 south of the Virginia railway freight station; thence with the
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29 center of the survey for the Mercer Electric Railway Company's
 30 line in a western and northwestern direction, to First street;
 31 thence with the center of first street, in a northern direction, to its
 32 intersection with the east end of the center line of Harrison street;
 33 thence with the center line of Harrison street in a western di-

34 rection to its intersection with the center line of Third street;
 35 thence with the center line of Third street, in a northern direction
 36 to the northern end of Third street; thence continuing in the same
 37 direction, and on the same degree as the last named line, to the
 38 corporate line; thence with the corporate line, in a southwest di-
 39 rection, to the center of Hale avenue, at the northeast corner of
 40 the first ward; thence with the center of Hale avenue, in a south-
 41 east direction, to Center street; thence with Center street, in an
 42 eastern direction, and with the line of the first ward, reversing its
 43 course to the intersection of the center line of Center street with
 44 the center line of Mercer street; thence with the center line
 45 of Mercer street, in a southwest direction to its inter-
 45-a section with the center line of Main street; thence
 46 with the center line of Main street to its intersection with
 47 the center line of Fellers street; thenc with the center
 48 line of Fellers street, in a southrn direction, to its inter-

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49 section with the center line of Princeton avenue; thence with
 50 the center line of Princeton avenue, in an eastern direction, to its
 51 intersection with the center of the Ingleside road; thence with
 52 the center of the Ingleside road, in a southeast direction, to the
 53 point of beginning.

54

Third Ward.

55 All the following described boundary shall constitute the third
 56 ward of the said city, that is to say: All that territory lying
 57 within the corporate limits of said city east, northeast and south-
 58 east of the second ward, and not included in the boundaries of
 59 either the first or second wards.

Municipal Authorities.

Sec. 4. The municipal authorities of the city of Princeton
 2 shall consist of a mayor, and three councilment, who shall con-
 3 stitute the council of said city.

Exercise of Corporate Powers.

Sec. 5. All the corporate powers and functions pertaining to
 2 said city shall be exercised by its council, or under its authority,
 3 in the corporate name of said city unless otherwise provided by
 4 state law or municipal ordinance.

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Subordinate Officers.

Sec. 6. The council shall appoint a superintendent of streets,

2 city engineer, police judge, chief of police, and any additional
3 police officers that they may deem necessary, city attorney, chief
4 of fire department, building inspector, and all other officers whose
5 offices may be established by ordinance of the city council or by
6 this act, and such officers shall hold the respective offices to which
7 they are appointed during the pleasure of the council and until
8 their successors are appointed and qualified. The several officers,
9 or any two or more may be held by the same person, *provided*, a
10 councilman shall not be eligible to any of the appointive offices,
11 and such officers shall receive such compensation as the council
12 may prescribe, by ordinance or order, unless said compensation be
13 fixed by this act, and the same shall not be increased or dimin-
14 ished during the term for which the appointment was made. The
15 mayor or recorder shall also be eligible to hold any said appointive
16 office to which the council may deem it advisable to appoint them.

Eligibility of Officers.

Sec. 7. No person shall be eligible to the office of mayor or
2 councilman, unless at the time of his election he is legally entitled
3 to vote in the city election for member of the common council;

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4 and he was for the preceding year assessed with taxes upon real
5 or personal property within the said city, of the assessed aggregate
6 value of at least three hundred dollars, and shall actually have
7 paid the taxes so assessed.

Election of Officers.

Sec. 8. On the first Tuesday in June, one thousand nine hun-
2 dred and seventeen, and every two years thereafter, on the first
3 Tuesday in June, there shall be electd by the qualified voters of
4 said city a mayor and by the qualified voters of each ward one
5 councilman. The term of office of said mayor and councilman
6 shall be for the period of two years, commencing on the first day
7 of July, next after their election, and until their successors shall
8 be elected and qualified.

Who Are Voters.

Sec. 9. Every male and female person residing in said city
2 shall be entitled to vote for all officers elected under this act; but
3 no person who is a minor, or of unsound mind, or a pauper, or
4 who is under conviction of treason, or bribery in an election, or
5 who has not been a resident of this state for one year and of said

6 city for six months next preceeding the election at which he desires
7 to vote, shall be permitted to vote therein.

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Registration of Voters.

Sec. 10. All qualified voters within the city of Princeton en-
2 titled to vote in the municipal election held therein shall be reg-
3 istered in like manner as are the qualified voters in state and
4 county elections, and the state laws of the state of West Virginia
5 in effect at the time of such registration shall in all things apply
6 thereto; except the fee for such registration shall be five cents
7 for each qualified voter so registered, and the powers conferred
8 upon the county court by the state laws in reference to the regis-
9 tration of voters are hereby conferred upon the council of said
10 city of Princeton.

General Election.

Sec. 11. In all elections by the people the mode of voting shall
2 be by ballot, but the voters shall be left free to vote an open sealed
3 or secret ballot, as they may elect. The election in said city shall
4 be held and conducted and the result thereof certified, returned
5 and finally determined under the laws in force in this state relat-
6 ing to general elections, except that the persons conducting said
7 elections shall on the day after the election is held deliver the
8 ballots, tally sheets and poll books to the recorder, and thereafter
9 the council of said city shall meet within five days (Sundays ex-

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10 cepted) after said election and canvass the returns of said elec-
11 tion, and declare the result thereof, and in all respects comply
12 with the requirements of the statute of the state relating to elec-
13 tions. The corporate authorities of said city shall perform all
14 duties in relation to such elections required by general law of the
15 county court and officers in effect on the day of said election and
16 each succeeding election under this chapter. And the provisions
17 of the code in effect on the date of said election, concerning elec-
18 tions by the people, shall govern such elections and be applicable
19 thereto, and the penalties therein prescribed for offenses relating
20 to elections shall be enforced against the offenders of such cor-
21 porate elections; and the said act shall have the same force and
22 effect as if it were specially applicable in such corporate elections
23 and was by this act re-enacted in *extenso*; except as above

24 modified as to the time in which the returns of the election and
25 canvass thereto shall be made.

Tie Vote; How Decided.

Sec. 12. Whenever two or more persons receive an equal number of votes for mayor, or councilman, such tie shall be decided by the council in existence at the time the election is held; provided, that the council in office at the time of the institution of H. B. No. 179]

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5 such contest proceeding shall hold over and remain in office for the purpose of passing upon and deciding such contest, and for 7 such purposes only; and nothing herein provided shall be construed to interfere with the duties, power and authority of the 9 new or incoming council.

Contested Elections.

Sec. 13. All contested elections shall be heard and determined by the council in existence at the time the election is held, and the contest shall be made and conducted in the manner as provided for in contests for county and district officers, and the council by their proceedings in such cases shall, as nearly as practicable, conform with like proceedings of the county court in such cases.

Vacancy in Office.

Sec. 14. Whenever a vacancy from any cause shall occur in any office, the council shall by a majority vote of those present fill such vacancy; and, in case of a vacancy in the office of councilman or mayor, the remaining members of the council shall fill said vacancy.

Appointment of Additional Officers, Defining Their Duties and Fixing Compensation for Such Officers.

Sec. 15. The council shall also have authority to provide by

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2 ordinance for the appointment of such other officers as shall be 3 necessary and proper, to carry into full force and authority the 4 power, capacity, jurisdiction and duties of said city, which are, or 5 shall be vested therein or in the council, or in the mayor, or any 6 other officer or body of officers, thereof, and to grant to the officers 7 so appointed the power necessary or proper for the purpose above 8 mentioned. The council, by ordinance, shall define the duties 9 of all officers so appointed, and may provide them a reasonable 10 salary, which shall be payable out of the city treasury which salary 11 shall not be increased or diminished during their term of office,

12 and shall require and take from all of them whose duty it shall
13 be to receive its funds, assets or property, or have charge of the
14 same, such bonds, obligations, or other writing as they shall deem
15 necessary or proper to insure the faithful performance of their
16 several duties. All officers elected may be removed by the coun-
17 cil from office for intemperance, gross immorality, gambling, mal-
18 feasant or misfeasant in office, or inability or neglect to per-
19 form the duties of their respective offices. Any appointed officer
20 who holds his office at the pleasure of the council, may be removed
21 from his office for cause, after due notice. The chief of police
22 shall have all power, rights and privileges within the corporate
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23 limits of said city in regard to the arrest of persons, the collections
24 of claims and the execution and return of process that can be
25 legally exercised by a constable of a district within this state;
26 and may without having any warrant or other process therefor,
27 arrest any person who commits any offense against the laws of this
28 state or infraction of the ordinances of said city, in his presence.
29 He shall be *ex-officio* the keeper of the city jail, and have charge
30 of the city prisoners confined therein, and may confine any person
31 arrested by him in the city jail until such time as the charge
32 against such person can be inquired into by the police judge.
33 Any person fined by the police judge, for infraction of any of the
34 ordinances of the city, may pay such fine to either the police judge,
35 or the chief of police; and the said chief of police and his sureties
36 shall be liable for all fines, penalties and forfeitures that a con-
37 stable of a district is liable for in the same court that the said
38 fine, penalties and forfeitures are now recovered against a district
39 constable. The police judge shall be *ex-officio* treasurer and
40 recorder of the said city, and as such shall perform all the duties
41 herein in this act imposed upon the treasurer and recorder of the
42 said city and be vested with all the powers herein vested in and
43 imposed upon the treasurer and recorder of said city. But the

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44 same person shall not be eligible to the office of police judge of said
45 city for two successive terms. The police judge shall be appointed
46 to his office by the council. It shall be the duty of the treasurer
47 to collect the city taxes, licenses, levies, assessments, and other
48 such city claims as are placed in his hands for collection by the
49 council, and he may distrain and sell therefor in like manner as a

50 sheriff may distrain and sell for state taxes; and he shall, in all
 51 other respects, have the same powers, as a sheriff to enforce the
 52 payment and collection thereof.

53 The recorder shall keep an accurate record of all the proceedings
 54 of the council and shall have charge of and preserve the records of
 55 the city. He shall also be *ex-officio* assessor of the city. He shall
 56 be paid a salary not to exceed twenty-four hundred dollars per
 57 year for his services as recorder, police judge, assessor and treas-
 58 urer, but the said council may, if deemed advisable, furnish such
 59 clerical assistance as may be necessary.

Bonds.

Sec. 16. All bonds, obligations or other writings taken in pur-
 2 suance of any provision of this act or under the provision of any
 3 order of said city, shall be made payable to "The City of Prince-
 4 ton," and the obligors therein and their heirs, executors, admin-
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5 istrators and assigns bound thereby shall be subject to the same
 6 proceedings on such bonds, obligations or writings for enforcing
 7 the conditions of the terms thereof, by motion or otherwise, before
 8 any court of record or justice of the peace having jurisdiction
 9 thereof, held or acting in or for said Mercer county, or any dis-
 10 trict thereof or elsewhere, that the sheriff or collector of said
 11 county and his sureties are or shall be subject to on his bond
 12 taken for the enforcement of the duties in the payment of the
 13 county levy.

Oaths of Office.

Sec. 17. The mayor, and councilmen, and all other officers provided
 2 for in this act, shall each, before entering upon the duties of their
 2-a offices and within fifteen days after receiving their certifi-
 3 cates of election or appointment, take the oath or affirmation
 4 prescribed by law for all officers in this state, and make oath or
 5 affirmation that they will truly, faithfully and impartially to the
 6 best of their ability, discharge the duties of their respective offices
 7 so long as they continue therein. Said oath or affirmation may
 8 be taken before any person authorized to administer oaths under
 9 the laws in force at the time the same is taken, or before the

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10 mayor or recorder of said city; but in any event a copy of said
 11 oath or said officer shall be filed with the recorder.

Tenure of Office.

Sec. 18. The mayor, recorder and councilmen, shall enter upon the duties of their offices upon the first day of July next after their election and continue for the period of two years and all appointed officers, shall enter upon the duties of their offices, as soon as they have qualified; and all officers, both elected and appointed, shall remain in office until their successors are elected or appointed and qualified, or until removed therefrom in the manner prescribed by law.

Ineligibility or Failure to Qualify.

Sec. 19. If any person elected to any office shall not be eligible thereto under the provisions of this act, or shall fail to qualify as herein required, the council shall declare his said office vacant and proceed to fill the vacancy as required by this act.

Power, Duties and Salary of the Mayor.

Sec. 20. The mayor of the said city shall be chairman of its council, shall preside at the meeting of the council, and shall perform such other duties consistent with his office as may be imposed by the council. He shall be entitled to vote in case of a tie but shall

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possess no veto power. He shall be recognized as head of the city for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the governor for military purposes. In time of public danger or emergency, he may, with the consent of the council, take command of the police and maintain order and enforce the laws. During his absence or disability, his duty shall be performed by another member appointed by the council. For his services as mayor, he shall receive the sum of three hundred dollars per year, to be paid out of the city treasury in monthly installments and no other fees, commissions, emoluments, salaries or compensation whatever shall be allowed him for his services as mayor.

Quorum.

Sec. 21. The presence of the mayor, and two members of said council shall be necessary to make a quorum for the transaction of business at all meetings of the council of said city.

Record of Minutes and Ordinances.

Sec. 22. The council shall cause to be kept by the recorder in a well bound book to be called the "minute book," an accurate record of all its proceedings, ordinances, acts, orders and resolu-

4 tions, and in another to be called "ordinance book," accurate
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5 copies of all general ordinances adopted by the council; both of
6 which shall be accurately indexed and open to the inspection of
7 any one required to pay taxes in the city, or who may be other-
8 wise interested therein. All oaths and bonds of officers in the
9 city, and all papers of the council shall be endorsed, filed and
10 securely kept by the recorder. The bonds of officers shall be re-
11 corded in a well bound book to be called "record of bonds." The
12 recorder shall perform such other duties as by ordinance of the
13 council may be prescribed. The transcript of ordinances, acts,
14 orders and resolutions certified by the recorder under the seal of
15 the city shall be admissible in evidence in any court, or before
16 any justice.

Reading of Minutes.

Sec. 23. At each meeting of the council the proceedings of the
2 last meeting shall be read and corrected, of errors, and signed
3 by the presiding officer for the time being. Upon the call of
4 any member the ayes and noes on any question shall be taken and
5 recorded by the recorder in the "minute book." The call of the
6 members for such vote shall be made alphabetically.

Who Shall Vote in Council.

Sec. 24. The mayor, or in his absence, one member of the coun-
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2 cil, shall preside at the meetings of said council; said recorder
3 shall vote as a member of said council, but said mayor shall have
4 no vote except in case of a tie.

Meetings of Council.

Sec. 25. The regular meetings of the council shall be pub-
2 licly held at such times and at such places in the city as they
3 shall from time to time ordain and appoint; and it shall be law-
4 ful for the council by ordinance to vest in any officer of the city,
5 or any member, or number of members, of its own body, the au-
6 thority to call special meetings and prescribe the mode in which
7 notice of such special meetings shall be given; if a majority of
8 the members of the council do not attend any regular or special
9 meeting, those in attendance shall have authority to compel the
10 attendance of absent members under such reasonable penalties
11 as they may think proper to impose by ordinance. All questions

12 put to vote, except such matters as hereinafter provided for, shall
13 be decided by a majority of the members present.

To Whom Money of City Shall be Paid.

Sec. 26. All moneys belonging to the city shall be paid over
2 to the city treasurer; and no money shall be paid out by him ex-
3 cept as the same shall have been appropriated by the council, and

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4 upon an order signed by the mayor and recorder, and not otherwise
5 except at the expiration of his term of office upon the order of
6 the council, signed by the mayor and recorder, he shall pay over
7 to his successor all the money remaining in his hands.

Duties and Powers of Council.

*Sec. 27. The council shall have authority to provide by ordi-
2 nance for the appointment of such other officers as shall be nec-
3 essary and proper, to carry into full force and authority the
4 power, capacity, jurisdiction and duties of said city, which are
5 or shall be vested therein or in the council or any other officer
6 or body of officers, thereof, and to grant to the officers so ap-
7 pointed the power necessary or proper for the purpose
7-a above mentioned. The council, by ordinance, shall de-
8 fine the duties of the officers so appointed, and may pro-
9 vide them a reasonable salary, which shall be payable
10 out of the city treasury, and shall require and take from
11 all of them whose duty it shall be to receive its funds, assets
12 or property, or have charge of the same, such bonds, obligations,
13 or other writing as they shall deem necessary or proper to insure
14 the faithful performance of their several duties.

15-16 The council of said city shall have power to lay off, vacate,
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17 close, open, alter, grade, improve and keep in good repair the
18 roads and streets, alleys, pavements, sidewalks, cross walks,
19 drains, sewers and gutters therein, for the use of the citizens
20 and the public, and to improve and light the same, and keep
21 them free from obstructions of every kind; to regulate the width
22 and kind of pavements and sidewalks, footways drains and gut-
23 ters, and cause the same to be built and kept in good repair
24 and order, and free and clean by the owners and occupants of
25 the real property next adjacent thereto; to establish public
26 parks and playgrounds and to this end purchase and acquire
27 necessary and appropriate grounds and improve the same and

28 regulate the use thereof; to establish markets, prescribe the
29 time for holding the same, provide suitable and convenient
30 buildings therefor, and prevent the forestalling of said markets;
31 to prevent injury or annoyance to the public or to individuals
32 from anything dangerous, offensive or unwholesome; to pro-
33 hibit or regulate slaughter houses, tan houses and soap fac-
34 tories within the city limits, or the exercise of any unhealth-
35 ful or offensive business, trade or employment; to abate all
36 nuisances within the city limits, or to compel the abatement or
37 removal thereof, at the expense of the person causing the same,

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38 or by or at the expense of the owner or occupant of the ground
39 on which said nuisance is placed or found; to cause to be filled
40 up, raised or drained, by or at the expense of the owner, any
41 city lot or tract of land covered or subject to be covered by
42 stagnant water; to prevent horses, hogs, cattle, sheep or other
43 animals, and fowls of all kinds from going or being at large
44 in such city, and as one means of prevention to provide for im-
45 pounding or confining such animals and fowls at the expense
46 of the owner thereof, and upon the failure of the owner to re-
47 claim, for the sale thereof; to protect places of divine worship
48 and to preserve order in and about the premises when and
49 where worship is held; to regulate the keeping and sale of gun-
50 powder, and other inflammable or dangerous substances; to
51 regulate the manner of exhibiting for sale and the selling of
52 milk, meats and vegetables and to permit and regulate the
53 building of houses, or other structures, and regulate the kind
54 of material to be used in the construction thereof, and to pro-
55 vide for the making and maintaining of division fences by the
56 owners of adjoining property, and for the proper drainage of
57 city lots and other parcels of land by or at the expense of the
58 owner or occupant thereof; to provide against danger or dam-

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59 age by fire; to punish assault and battery; to prohibit the
60 keeping or loitering in or visiting houses of ill-fame, or loiter-
61 ing in saloons or upon the streets; to prevent lewd or lascivious
62 conduct, the sale or exhibition of indecent pictures or papers
63 or other representations; to prevent adultery and fornication;
64 to prohibit the carrying of concealed or dangerous weapons
65 within the corporate limits of said city; to punish drunkenness;

66 to punish larceny where the amount stolen is less than twenty
67 dollars; to prevent gambling, and the keeping and using of slot
68 machines and gaming devices; to prohibit anything against
69 good morals and common decency, and to fix punishment there-
70 for; to prevent the desecration of the Sabbath day, profane
71 swearing, the illegal sale of intoxicating drinks, mixtures or
72 preparations; to protect the person of those residing or being
73 in said city; to appoint when necessary or advisable, a police
74 force, permanent or temporary, to assist the chief of police in
75 the discharge of his duty, and who, when appointed, to have
76 the same power and authority in and about the arrest of offend-
77 ers, as the chief of police may have; to build or purchase, or
78 lease a suitable place of imprisonment within said city, for the
79 safe keeping or punishment of persons charged with or con-

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80 victed of a violation of the ordinances of the city, or they may
81 adopt the county jail of Mercer county for the purpose; to
82 erect or authorize or prohibit the erection of gas, water works,
83 or electric works or all of them within the city limits, or near
84 the same; to require any company or person furnishing gas,
85 electricity or water to said city for the inhabitants thereof, to
86 put in standard meters for the measurement thereof, and may
87 appoint any person to inspect the meters and remove the same,
88 if not standard and in good order; to prevent injury to such
89 works, or the pollution of any gas or water used or intended
90 to be used by the public or any individual; to require the ex-
91 tension of gas, electric and water lines by such respective com-
92 panies, to any and all parts of the said city when the said
93 council may deem the same necessary; to provide for and reg-
94 ulate the weighing of hay, coal, lumber and other articles sold
95 or kept within said city, and to establish rates and charges
96 for the weighing and measuring thereof; to create by ordinance
97 such committees and delegate such authority thereto as may
98 be necessary or advisable; to provide for the annual assessment
99 of taxable property therein, and for the revenue for the city for
100 municipal purposes, and to appropriate such revenue to its
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101 expenses; and generally to have power to take such measures
102 as are deemed necessary or advisable to protect persons or
103 property, public or private, within the city; to preserve peace,

104 quiet and good order therein and to promote the health, safety,
105 comfort and well being of the inhabitants thereof; to organize
106 one or more fire companies and provide necessary apparatus,
107 tools, implements, engines, or any of them, for their use, and
108 in their discretion to organize a paid fire department; to make
109 regulations with respect to the erection and location of tele-
110 phone, telegraph, electric light or other poles by any individual
111 or corporation; to grant and regulate all franchises in, upon,
112 over and under the streets, alleys and public ways of said city,
113 under such restrictions, as shall be provided by ordinance; but
114 no exclusive franchise shall be granted by said council to any
115 individual or corporation, nor shall any franchise be granted
116 for a longer period than fifty years; to regulate, license and re-
117 strict the use of motor busses, automobiles, carriages, drays and
118 wagons, upon the streets, alleys and public grounds of the said
119 city when the same are being used for hire and reward.

120 The council shall have authority to pass all ordinances not
121 repugnant to the constitution and laws of the United States

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122 and of this state, which shall be necessary and proper to carry
123 into full effect the power, authority, capacity and jurisdiction
124 which is or shall be granted to or vested in the said city, or in
125 the council or in any officer or body of officers of said city,
126 and to enforce any and all of the ordinances by reasonable
127 fines and penalties, and upon the failure to pay any fine or pen-
128 alty imposed, may compel the offender to labor without com-
129 pensation at and upon any of the public works or improve-
130 ments undertaken, or to be undertaken, by said city, or to
131 labor at any work which the said council may lawfully employ
132 labor upon, at such reasonable rates per diem as the council
133 may fix, until any fine, or fines and costs upon any offender by
134 said city have been fully paid and discharged, after deducting
135 reasonable charges of support while in the custody of the offi-
136 cers of the city; *provided, however*, that no fine shall be im-
137 posed exceeding two hundred dollars and costs, and that no
138 person shall be imprisoned or compelled to labor as aforesaid
139 for more than sixty days for any offense. And in all cases
140 where a fine is imposed for an amount exceeding ten dollars
141 and costs, or a person be imprisoned, or be compelled to labor
142 as aforesaid for a greater term than ten days, an appeal may

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143 be taken from such decision upon the terms and conditions as
144 appeals are taken from the judgment of a justice of this state.
145 Such fines and penalties shall be imposed and recovered, and
146 such imprisonment inflicted and enforced by and under the
147 judgment of the police judge of said city; or in case of his
148 absence or inability to act, by the recorder of said city; or in
149 case of his absence or inability to act, then by any member of
150 the council, to be appointed by the council for that purpose;
151 and for his services in trying cases, whether civil, criminal or
152 infractions against ordinances, the police judge shall be en-
153 titled to charge and collect such fees as are paid to justices of
154 the peace for similar services, which shall be paid into the
155 city treasury at the end of each month, taking proper vouchers
156 therefor; *provided, further*, that the fee for making any arrest
157 shall be one dollar, whether such officer be the chief of police
158 or other officer. In addition to the powers above enumerated,
159 the said city council shall have power to build, construct, main-
160 tain and operate a sufficient sewerage system and water works,
161 as may be necessary for the proper supply of water to the in-
162 habitants of the said city, for both public and private use,
163 and said city shall have the power to purchase or condemn

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164 any water works now in the said city or hereafter placed therein
165 by any party other than said city, whenever the council of said
166 city shall deem proper, and such order shall have been ratified
167 by a vote of the qualified voters of said city, at an election
168 called for that purpose, with due notice, and at least two-thirds
169 of the votes cast at said election shall vote for the ratification
170 of said council to purchase or condemn said water works; and
171 the city shall have the power to enlarge the said water works,
172 if so purchased or condemned, by putting additional reservoirs
173 either within or out of said city; and the said city shall have
174 the right, if its council shall deem proper, and the order of said
175 council be ratified by a vote as aforesaid, to build, construct,
176 maintain, and operate such water works in the said city as may
177 be deemed proper without the purchase or acquisition of any
178 water works then in said city and said city shall have the right
179 to lay pipes and mains for the proper distribution of said
180 water, either in or out of said city, as shall be necessary for

181 the proper distribution of same, and for that purpose may ac-
182 quire by lease, purchase or condemnation all such lands as shall
183 be necessary, either within or without the said city, or they
184 may contract for such work to be done, in either event to
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185 supply an adequate supply of pure, healthful water for said
186 city, and do all things necessary to supply the said city and
187 the inhabitants thereof with water as aforesaid; and the said
188 city may acquire by purchase or condemnation any electric
189 light plant now in said city or hereafter placed therein by any
190 party other than said city, and shall have the right to build,
191 construct, maintain, and operate such plant for furnishing
192 electricity for said city, and for the inhabitants thereof, but
193 no electric light plant shall be purchased, condemned, or built
194 or operated unless voted on by the qualified voters of said city
195 at an election called and held as aforesaid, and the same be
196 ratified by a two-thirds vote of all votes cast at said election.
197 Whenever anything for which a state license is required is to
198 be done in said city, the council may require a city license
199 therefor and may impose a tax thereon, for the use of said city.

Chief of Police.

Sec. 28. The chief of police shall have all power, right and
2 privileges within the corporate limits of said city in regard to
3 the arrest of persons, the collection of claims and the execution
4 and return of process that can be legally exercised by a con-
5 stable of a district within the state; and may without having

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6 any warrant or other process therefor, arrest any person who
7 commits any offense against such laws of this state or infrac-
8 tion of the ordinances of said city in his presence. He shall
9 be *ex-officio* the keeper of the city jail and have charge of the
10 city prisoners confined therein, and may confine any person ar-
11 rested by him in the city jail until such time as the charge
12 against such person can be inquired into by the police judge.
13 Any person fined by the police judge, for infraction of any of
14 the ordinances of the city may pay such fine to either the police
15 judge, recorder or the chief of police; and the said chief of
16 police and his sureties shall be liable for all fines, penalties and
17 forfeitures that a constable of a district is liable for in the

18 same court that the said fine, penalties and forfeitures are now
19 recovered against a district constable.

Treasurer.

Sec. 29. It shall be the duty of the treasurer to collect the
2 city taxes, licenses, levies, assessments and other such city claims
3 as are placed in his hands for collection by the council, and he
4 may distrain and sell for state taxes; and he shall, in all other
5 respects, have the same powers, as a sheriff to enforce the pay-
6 ment and collection thereof.

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Police Judge.

Sec. 30. The police judge shall be a conservator of the peace
2 within the said city. He shall see that the orders, by-laws, or-
3 dinances, acts and resolutions of the council are faithfully exe-
4 cuted. He shall be *ex-officio* justice of the peace within the said
5 city and shall, within the same, have, possess and exercise all
6 the powers and perform all the duties vested by law in a justice
7 of the peace, except he shall have no jurisdiction in civil causes
8 of action arising out of the corporate limits of the city, unless
9 the defendant resides or is found therein and process therein
10 served upon him. He shall have the same power to issue attach-
11 ments in civil suits as a justice of the peace of his county has;
12 but, in such case, he shall have no power to try the same, but
13 such attachments shall be made returnable and heard before a
14 justice of the peace of his county. Any warrant issued by him,
15 or other process, may be executed at any place in said county.
16 He shall have control of the police of said city and may appoint
17 special police officers, whenever he may deem it necessary, and
18 may suspend any police officer of the city until the next regular
19 meeting of the council. And it shall be his duty especially to
20 see that the peace and good order of the city are preserved, and

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21 that persons and property therein are protected, and to this end
22 he may arrest or cause the arrest and detention of all violators
23 of the laws of this state and ordinances of the city, before issuing
24 his warrant therefor, if the offense is committed in his presence.
25 He shall have power to issue his warrant for the arrest and ap-
26 prehension of all persons violating the ordinances of the city,
27 and shall have power to try the same and impose upon such
28 violators of the ordinances of said city such fines and penalties

29 as are prescribed by the ordinances thereof. He shall have the
30 power to issue executions for all fines, penalties and costs im-
31 posed by him, or he may require the immediate payment thereof,
32 and in default of such payment, he may commit the party in
33 default to the jail of said county, or other place of imprisonment
34 used by such corporation, if there be one, until the fine or pen-
35 alty and the costs be paid; but the imprisonment in such cases
36 shall not exceed sixty days. And in all cases where a person is
37 sentenced to imprisonment or to the payment of a fine of ten
38 dollars or more (and in no case shall a judgment for a fine of
39 less than ten dollars if the defendant, his agent or attorney ob-
40 ject to a less fine being imposed) such person shall be allowed
41 an appeal from such decision to the criminal court of the county
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42 of Mercer, upon the execution of an appeal bond with security
43 deemed sufficient by said police judge to cover the fine and costs,
44 and the cost in the criminal court in case said judgment be
45 affirmed, with condition that the person proposing to appeal will
46 perform and satisfy any judgment which may be rendered against
47 him by the criminal court on such appeal. If such appeal be
48 taken, the warrant of arrest, if any, a transcript of the judg-
49 ment, the appeal bond and other papers in the case shall be
50 forthwith delivered by the said police judge to the clerk of said
51 court, and the said court shall proceed to try the case as upon
52 an indictment or presentment and render such judgment, in-
53 cluding costs, as the law and evidence may require. The ex-
54 pense of maintaining any person committed to jail as hereinbe-
55 fore set forth by the police judge, except it be to answer an
56 indictment, shall be paid by the said city and taxed as costs
57 against the defendant. He shall from time to time recommend
58 to the council such measures as he may deem useful and needful
59 for the welfare of the city. All fees which he would be entitled
60 to recover and retain in cases tried by him, shall be charged and
61 recovered by him and paid into the city treasury at the end of each
62 month for the use and benefit of the city; and a statement thereof

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63 showing such money deposited in the treasury shall be exhibited
64 by the recorder to the council of said city at its next succeeding
65 meeting, at which time he shall be charged on the minute book,

66 or such other proper book as shows his account, with the amount
67 of such fees and costs to be paid into the city treasury.

Police Docket.

Sec. 31. A well bound book, indexed, to be denominated the
2 "police docket," shall be kept in the office of the police judge,
3 in which shall be noted each case brought before or tried by him
4 together with the proceedings therein, including a statement of
5 the complaint, the warrant or summons, the return, the fact of
6 appearance, or non-appearance, the defense, the hearing, the
7 judgment, the costs, and in case the judgment be one of convic-
8 tion, the action taken to enforce the same. The record of each
9 case shall be signed by the police judge, and the original papers
10 thereof, if no appeal be taken, shall be kept together and preserved
11 in his office.

Sec. 32. The council shall be governed in all respects in lay-
2 ing the annual levy or any additional or special levy by chapter
3 nine of the acts of the extraordinary session of the legislature of
4 West Virginia of one thousand nine hundred and eight and by
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5 chapter eighty-five of the acts of the session of the legislature
6 of one thousand nine hundred and fifteen as the same is amenda-
7 tory of certain sections of the said chapter nine of the said acts
8 of one thousand nine hundred and eight, except that they may
9 include a poll tax of not exceeding one dollar each year upon
10 each able bodied man therein, who is above the age of twenty-
11 one years and not over fifty years of age, which poll tax shall
12 be used exclusively for opening, improving and maintaining
13 roads, streets and alleys of the city, and shall designate the
14 same as the "street taxes;" and the said council may also im-
15 pose such license tax upon dogs and other animals as they may
16 deem proper, and collect the same from the owners of such ani-
17 mals, as other taxes are collected, and prescribe such rules, regu-
18 lations and penalties governing the payment of such tax on ani-
19 mals as they may deem reasonable. And the general annual levy
20 upon the taxable property within the corporate limits of said
21 city shall not exceed the sum of thirty-five cents upon each one
22 hundred dollars valuation. But in addition to said levies above
23 mentioned, and in addition to any levies provided by the gen-
24 eral law, with which these are not meant to conflict, the council
25 of said city, beginning with the year one thousand nine hundred

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26 and seventeen, are empowered to and shall lay a special annual
27 levy not to exceed twenty cents on each one hundred dollars val-
28 uation of the property in said city for the purpose of creating
29 a sinking fund with which to pay off the principal of the present
30 outstanding bonded indebtedness of said city when the same be-
31 comes due and for the purpose of paying annually, when due, the
32 interest coupons of the said present outstanding bonded indebted-
33 ness of the said city, which said special levy shall be continued
34 annually by the council for as man years as may be necessary
35 to pay off said present outstanding bonded indebtedness and the
36 interest coupons that may become due thereon, but no longer.
37 Also, in addition to the above, the said council, beginning with the
38 year one thousand nine hundred and seventeen, are empowered
39 to and shall lay a special annual levy not to exceed fifteen cents
40 on each one hundred dollars valuation of the property in the
41 said city for the purpose of paying off any outstanding orders
42 issued against the treasury of said city prior to July the first, one
43 thousand nine hundred and sixteen, and for the purpose of pay-
44 ing off any debts contracted prior to said date of any judgment
45 taken against the said city prior to said date. And both of the
46 aforesaid special levies, when collected, shall be used for no other
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47 purposes than for the aforesaid purpose for which they shall
48 be laid as aforesaid.

Annual Assessment.

Sec. 33. It shall be the duty of the assessor to make an assess-
2 ment of the property within the city subject to taxation substan-
3 tially in the manner and form in which assessments are made by
4 the assessor of the county, and return the same to the council on
5 or before the first day of June of each year, and for this purpose
6 he shall have all the powers conferred by law upon county assessors.
7 He shall list the number of dogs and other animals subject to
8 license tax in the city, and the names of the persons owning the
9 same, which list shall be returned to the council at the same time
10 his assessment books are returned. But in making his assessment
11 on real and personal property he shall be governed by the assess-
12 ment on real and personal property for state and county pur-
13 poses for said year, and the value placed on said property shall
14 not exceed the value of such assesment for county and state pur-

15 poses. In order to aid the assessor in ascertaining the property
16 subject to taxation by said city, he shall have access to all books
17 and public records of said Mercer county, without expense to him
18 or said city, and he shall have the same power and be subject to

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19 the same penalties in ascertaining and assessing the property and
20 subjects of taxation in said city, as are granted and imposed on the
21 county assessors throughout the state by general law; and the
22 council shall have authority to prescribe by general ordinance,
23 such other rules and regulations as may be necessary to enable and
24 require such treasurer to ascertain and properly assess all property
25 liable to be taxed by said city, so that such assessment and taxa-
26 tion shall be unifom and equal, and the council may enforce such
27 rules and regulations by reasonable fines to be imposed on an one
28 failing to comply therewith. When he shall complete his assess-
29 ment book he shall deliver the same when sworn to, to the city
30 council.

Liens for Taxes.

Sec. 34. There shall be lien on all real estate within the said
2 city for the said city taxes assessed thereon, and for all fines and
3 penalties assessed against or imposed upon the owners thereof, by
4 the authorities of said city, including expenses for making, main-
5 taining and repairing, paving and macadamizing sidewalks,
6 drains, gutters and streets from the time the same are so assessed
7 or imposed, which shall have priority over all the other liens ex-
8 cept taxes due the United States and the lien for taxes due the
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9 state, county and district, and such lien may be enforced by the
10 counsel in the manner provided by law for the enforcement of the
11 lien for county taxes. And the laws of the state of West Vir-
12 ginia in relation to delinquent taxes, and the sale of property
13 therefor, are hereby and in all respects adopted as to all pro-
14 ceedings in relation to taxes for city purposes delinquent in said
15 city. And the powers and duties conferred by the laws of said
16 state upon county courts and their clerks and sheriffs in regard to
17 delinquent taxes and their collection, are hereby in all things con-
18 ferred upon said city council, its recorder and other city officials,
19 in so far as the same may be directly or by implication applicable
20 in the collection of delinquent taxes due said city.

Collection of Taxes.

Sec. 35. It shall be the duty of the city treasurer when the
2 extended copies of the assessor's books are completed, to receive
3 a copy thereof, receipting to the council for the same, and it
4 shall be his duty to collect from the parties the entire amount of
5 the taxes with which they are severally charged therein, and may
6 proceed to collect the same at any time after the first day of
7 August, and may enforce the payment thereof by levy upon the
8 personal property, and sale thereof, of the person charged with

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9 taxes at any time after the first of October, next, after said taxes
10 are assessed. He may also allow a discount of two and one-half
11 per cent on all taxes paid on or before the thirtieth day of Novem-
12 ber. Said taxes shall be a lieu upon the property upon which they
13 are assessed, from and after the time the assessor's books are com-
14 pleted, verified and returned to the city council, and he shall
15 write the word "paid", opposite the name of each person who pays
16 the taxes against him, and shall also give to the person paying
17 such taxes a receipt therefor; *provided, however*, that said treas-
18 urer may distrain at any time for any taxes assessed against a
19 person who is about to remove, or who has removed from said
20 city, after such taxes are assessed, and the books returned as afore-
21 said. He shall also receive such other moneys of the city as he is
22 authorized by this act to receive, and also all moneys ordered by
23 the council to be paid to him, giving receipt therefor to the par-
24 ties paying the same, and shall keep an accurate, itemized account
25 of all money received by him. His books shall, at all times, be
26 open for inspection of the mayor, council, city recorder, and to
27 any taxpayer of the city. He shall also make up monthly state-
28 ments of the money received by him and the amount paid out by
29 him and to whom, showing the amounts in his hands from all
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30 sources, and shall post the same in the mayor's office on the last
31 day of each month. He shall pay out the money in his hand upon
32 the order of the city council, upon orders signed by the mayor and
33 the recorder. He shall, on or before the expiration of the term
34 of office of the mayor, and at such other times as the council may
35 require, present to the council a full and complete statement of all
36 moneys with which he is chargeable, or that have been received
37 by him, and not previously accounted for, and shall at the same

38 time, in like manner, furnish a complete statement, by separate
39 items, of all disbursements made by him during such period, with
40 his vouchers evidencing the same. He shall receive all taxes upon
41 licenses and receipt to the party paying the same, by endorse-
42 ment upon the permit granted by order of the council, or mayor
43 as the case may be. He shall, upon the expiration of his term of
44 office, turn over to the council all books and other property in his
45 possession belonging to the city, except the money in his hands,
46 which he shall turn over to his successor, upon the order of the
47 council, as hereinbefore provided; and shall, before entering upon
48 the duties of his office, execute a bond with good security payable
49 to said city in a penalty of not less than ten thousand dollars, con-
50 ditioned that he will faithfully discharge the duties of his office

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51 and account for and pay over as required by law and the orders,
52 ordinances, rules and regulations of the council of said city, all
53 money which shall come into his hands, which bonds shall be sub-
54 ject to the approval of the council. He shall be chargeable with
55 all the city taxes, levied and assessments and money of the city,
56 which shall come into his hands and shall account therefor.

Additional Duties of Assessor and Treasurer.

Sec. 36. In addition to the other duties of the assessor it shall
2 be his duty on or before the first day of August, in each year,
3 to make a copy from the real and personal property books of the
4 assessor of Mercer county of all property shown to be liable for
5 taxes within the limits of the city of Princeton, and to certify
6 such under his hand as a true and correct copy thereof, and to
7 deliver the same to the council, to assist said council in preparing
8 the annual estimate of expenses to be certified as a basis for the
9 annual levy. After such annual levy is made in each year, it shall
10 be the duty of the assessor to extend said levy upon said real
11 estate and personal property books for said city, but the treas-
12 urer shall prepare proper tax tickets therefrom against all owners
13 of real estate and personal property subject to taxation in said
14 city.

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Licenses.

Sec. 37. The council shall prescribe by ordinance the time and
2 manner in which licenses of all kinds shall be applied for and
3 granted, and shall require the payment of the tax thereon to the

4 city recorder before the delivery thereof to the person applying
5 therefor, which tax shall include the same fees for the issuing of
6 such licenses as are charged for similar services by state and county
7 officers, which fees shall be paid into the city treasury. The
8 council may revoke any such license for a breach of any of the
9 conditions, or for other good cause shown, but the person holding
10 such license, must first have reasonable notice of the time and
11 place of hearing and adjudicating the matter, as well as the cause
12 alleged; and shall be entitled to be heard in person or by counsel,
13 in opposition to such revocation. The term for which licenses
14 provided for in this chapter shall be granted shall be governed by
15 the general law providing for state licenses.

Condemnation of Land for Public Use.

Sec. 38. The council shall have the right to institute and prosecute proceedings in the name of the city for condemnation of real estate for streets, alleys, roads, drains, sewers, market grounds, city prison, city hall, water works, electric light plant or

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5 other works, or purposes of public utility. Such proceedings shall
6 conform to the provisions of chapter forty-two of the code of West
7 Virginia, and the expenses thereof shall be borne by the city,
8 except in cases where it is proper under said chapter to charge
9 said expense or any part thereof against the defendant.

Provisions for Bonding City.

Sec. 39. The council of the said city shall have the right to bond the said city for the purposes of paving the said streets, or for other permanent improvements, or for the purpose of taking up, paying off or refunding any already outstanding city bonds or items of indebtedness, whenever the council thereof may deem the same necessary; but the aggregate indebtedness of the said city for all purposes shall never at any time exceed five per centum of the assessed valuation of the taxable property therein according to the last assessment next preceding said date. The said council shall provide a fund for the payment of the interest annually on the said indebtedness so created, and to pay the principal thereof within and not exceeding thirty-four years; *provided*, that no debt shall be contracted hereunder, unless all questions connected with the same be first submitted to a vote of the qualified voters of said city, and have received three-fifths of all the votes cast for and against the same.

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No Indebtedness to Be Created for Current Expenses.

Sec. 40. The council of the said city shall not, at any time, or
2 for any purpose, create any indebtedness against the said city
3 except as provided in the next preceding section, exceeding the
4 available assets of the said city for the current year; and if the
5 said council shall create such indebtedness or issue orders on the
6 city for an amount exceeding the amount of money collected for
7 that year for said city from all sources, and the amount of money
8 then in the treasury appropriated, the members of said council
9 shall be severally and jointly liable for the payment of the excess
10 of such indebtedness of orders over the amount of money applicable
11 thereto, and the same may be recovered in any court having juris-
12 diction thereof. Any councilman violating the provision of this
13 section shall be deemed guilty of malfeasance in office, and may
14 be removed as such councilman in pursuance of section fifteen of
15 this act. *Provided, however,* this shall not be applicable to such
16 members who have voted against such excess; and, *provided,*
17 *further,* that the vote of each member of council shall be recorded.

Streets, Roads and Bridges.

Sec. 41. The said city shall construct, conduct and maintain its
2 own roads and streets, and by reason thereof shall not be required

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3 to pay any district or county road levies for the construction and
4 maintenance of roads outside of the city limits.

Power to Make and Maintain Sidewalks, Streets, Etc.

Sec. 42. The council shall have power to provide for the
2 construction, maintenance and repair of sidewalks, drains and
4 construction, maintenance and repair of the same upon the prop-
5 erty abutting thereon and the owners thereof and collect the same
6 in the same manner as other taxes and levies are collected, and
7 shall have power to macadamize and pave the streets of the said
8 city, or any of them, and assess part of the expenses of macadam-
9 izing and paving not to exceed one-third thereof upon the abut-
10 ting property on each side thereof, and the owners thereof, and
11 collect the same in the same manner as other taxes and levies are
12 collected; and such assessments for sidewalks, drains, gutters,
13 macadamizing and paving shall be a lien upon such abutting prop-
14 erty, the same as other taxes and levies within said city upon the
15 property, therein. *Provided, however,* that whenever the council

16 shall deem it expedient to cause any street or alley in said city
17 to be paved, curbed, macadamized, concreted or otherwise improved
18 in permanent manner, upon the petition in writing of persons
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19 owning not less than three-fifths of the amount of the frontage
20 of the lots abutting on both sides of any street or alley, between
21 any two cross streets, or between a cross street and an alley, the
22 council shall order so much of said street as is described in said
23 petition improved as aforesaid and assess a part not to exceed one-
24 half of the expenses of such improvements upon the abutting
25 property on each side thereof, and the owners thereof, and col-
26 lect the same in the manner as other taxes and levies are col-
27 lected; and such assessments shall be a lien upon such abutting
28 property, the same as other taxes and levies in said city are liens
29 upon the property therein; *provided, further*; that nothing herein
30 shall be construed to prevent the council from arranging for the
31 construction of any such improvement, by agreement with the
32 abutting property owners, if the council shall so desire and deem
33 it advisable to do so.

Existing Ordinances.

Sec. 43. All ordinances, by-laws, resolutions and rules of the
2 city of Princeton in force on the day preceding the passage of this
3 act, which are not inconsistent therewith, shall be and remain in
4 full force over the whole boundary of said city of Princeton, as
5 established by this act, until the same are amended or repealed by

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6 the council of said city, and the officers elected on the first Tues-
7 day in June, one thousand nine hundred and fifteen, in the city
8 of Princeton, shall remain in office until their successors under
9 this act are elected and qualified as hereinbefore provided; and
10 after this act takes effect, shall have jurisdiction over all the ter-
11 ritory embraced in the boundary specified in this act, and shall
12 perform all the duties of such respective officers under this act;
13 but nothing in this act shall be construed or held to in any way
14 affect or impair any of the bonds, obligations or indebtedness of
15 the city of Princeton issued or contracted prior to the passage
16 of this act; but, on the contrary, the said city of Princeton shall
17 be liable for all bonds, obligations and indebtedness of the city of
18 Princeton as though the same had been created under this charter.

*The Duty of the Council to Appoint Officers to Hold Elections
Hereunder.*

Sec. 44. The council of the city of Princeton shall provide
2 places for voting in each ward in all municipal elections of the
3 city, and appoint commissioners residing therein to hold and con-
4 duct the election hereinbefore provided to be held, and shall pass
5 all proper ordinances to give this act full force and effect.
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Duties of City Attorney.

Sec. 45. The city attorney, if there be one, shall be the legal
2 adviser of the city and all of its officers in all matters arising,
3 and in which legal proceedings may be taken; he shall prosecute all
4 suits, actions and proceedings instituted on behalf of said city,
5 and defend all suits and actions against said city, and when re-
6 quested in writing shall give his written opinion to the mayor or
7 council or any standing committee thereto upon such legal ques-
8 tions as may be referred to him affecting the city's interest; he
9 shall perform such other duties as may be required. It shall be
10 his duty to attend the sessions of the council when requested and
11 prosecute all trials before the police judge, and all appeals that are
12 taken from such police judge to the criminal or circuit court, and
13 for his services he shall receive such compensation as the council
14 shall provide, and in addition thereto in all criminal prosecutions
15 conducted by said city attorney, where there is a conviction of the
16 defendant, there shall be taxed an attorney's fees in favor of said
17 city attorney, not less than five nor more than ten dollars, which
18 said fee shall be taxed as a part of the costs of the case.

Where Money to be Deposited.

Sec. 46. It shall be the duty of the city treasurer to keep all
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2 funds of the city, which shall pay interest on such deposits and on
3 the average daily balances of such funds of the per cent. equal, at
4 least, to that paid by state depositories on all funds of the state of
5 West Virginia and in the same manner and at the same time. If
6 no bank within said city is willing at any time to receive deposits
7 of the treasurer and pay such interest thereon, the treasurer shall
8 report this fact to the council, whereupon the council shall desig-
9 nate the bank or banks in which he shall deposit said funds for the
10 time being and until some bank in said city will receive such de-
11 posits on such terms.

Salaries of Councilmen.

Sec. 47. Each councilman of said city shall receive from the city to be paid out of the city treasury the sum of one hundred dollars a year, payable in monthly installments and there shall be deducted from the salary of the mayor, and councilman five dollars for each time either of said officers shall be absent from a regular meeting of said council, unless such absence be caused by sickness or absence from the city.

Sec. 48. The city council shall have supervision of all plats or maps subdividing land into streets, alleys, blocks and lots within the corporate limits. No such subdivisions shall be opened

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of any block or lots sold; and no plat or map subdividing land within the city limits, over which the said council shall have supervision, shall be entitled to record in the office of the clerk of the county court, except it bears the written approval of the said council, endorsed thereon; and no street or alley shown upon said unapproved plat or map shall subsequently in any way be accepted as a public street or alley by the said city; nor shall any public funds be expended in the repair and improvement of said street or alley, except said street or alley be made to conform to the city plans and be approved and made a matter of record by the said city council.

It shall be the duty of the said council, to carefully study the city and its environments for the purpose of providing a plan for its future growth and development, comfort, safety, convenience and efficiency; and the said council shall adopt such ordinances as may be required for the proper execution of the plan provided.

Repeal of Inconsistent Acts and Ordinances.

Sec. 49. All ordinances of the city of Princeton, as they exist at the time of the passage of this act, which are inconsistent

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therewith, are hereby abrogated, and all acts and parts of acts inconsistent with any of the provisions of this act are hereby repealed.

ENGROSSED

House Bill No. 393

(BY MR. WYSONG)

A BILL establishing a building code, regulating the construction of, repair of, alteration on the additions to public and other buildings and parts thereof; regulating the sanitary condition of public and other buildings, providing for fire protection and fire prevention; and providing for the construction and erection of elevators, stairways and fire escapes in and upon public buildings.

Be it enacted by the Legislature of West Virginia:

Section 1. It shall be the duty of the state fire marshal, or of the fire chief of any municipality having a fire department, to enforce all the provisions herein contained relating to fire prevention and protection.

Sec. 2. It shall be the duty of the chief inspector of hotels, and of the factory inspector or building inspector, or commissioner of buildings and in any municipality having a building department, to enforce all the provisions herein contained for the construction, arrangement and erection of all public buildings or parts thereof including provisions relating to the sanitary condition, and to the heating and ventilation thereof. It shall be the duty of the state board of health, of the building inspector or commissioner, or health department of any municipality having a building or health department, to enforce all the provisions in this act contained, in relation and pertaining to sanitary plumbing. But nothing herein contained shall be construed to exempt any other officer or department from the obligation of enforcing all existing laws in reference to this act.

Sec. 3. It shall be unlawful for any owner or owners, officers, board, committee or other person, to construct, erect, build or cause to be constructed, erected, built or equipped any opera house, city hall, court house, theater, church, schoolhouse, college, academy, seminary, infirmary, sanitarium, children's home, hospital, medical institute, asylum, memorial building, armory, assembly hall or other building used for the assemblage or better-

8 ment of people in any municipal corporation, county or district
9 in this state, or to make any addition thereto or alteration thereof,
10 except in case of repairs for maintenance without affecting the
11 construction, sanitation, safety or other vital feature of said build-
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12 ing or structure, without complying with the requirements and
13 provisions relating thereto contained in this act.

Sec. 4. It shall be unlawful for any architect, or any other
2 person in charge of the building, to violate or assist in violating
3 any of the provisions contained in this act.

Sec. 5. All sections of this act and all parts of sections
2 are hereby declared to be independent sections and parts of sec-
3 tions, and the holding of any section or part thereof to be void
4 and ineffective for any cause shall not be deemed to affect any
5 other section or part thereof.

Sec. 6. Nothing herein contained shall be construed to limit
2 the council or other governing body, of any municipality from
3 making further and additional regulations, not in conflict with
4 any of the provisions of this act contained, nor shall the provisions
5 of this act be construed to modify or repeal any portions of any
6 building code adopted by a municipal corporation and now in
7 force which are not in direct conflict with the provisions of this
8 act. Where the use of another fixture, device or construction is
9 desired, at variance with what is described in this statute, plans,
10 specifications and details shall be furnished to the proper state
11 and municipal authorities mentioned in section one for exami-

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12 nation and approval, and if required actual tests shall be made
13 to the complete satisfaction of said state municipal authori-
14 ties to show that the fixture, device or construction hereafter pre-
15 scribed in this state, instead of actual tests satisfactory evidence
16 of such tests may be presented for approval with full particulars
17 of the results and containing the names of witnesses of said
18 tests.

Sec. 7. The provisions of this act shall not apply to the
2 construction or erection of any public building or any addition
3 thereto or alteration thereof, the plans and specifications of which
4 have been heretofore approved by the proper officers; nor shall
5 they apply to the construction, erection or equipment of any pub-
6 lic building, addition thereto or alteration thereof, where any lot

7 or land has been purchased for the erection or equipment of such
8 building or where the contract for the construction, erection or
9 equipping of which has been let or entered into prior to the
10 date at which this act takes effect; nor shall the provisions pre-
11 scribing the minimum distance at which buildings or structures,
12 or parts thereof, shall be located from any lot line, or the pro-
13 visions relating to open courts and fire-proof passage-ways, apply
14 when the provisions of this act are, or can be, complied with by
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15 or with the use of adjoining property, and when such adjoining
16 property affords the widths and areas as prescribed by this act, and
17 is available for the purposes intended, and when such adjoining
18 property is so situated, used, dedicated or deeded, as to preclude
19 the erection of any building or structure or part thereof on the
20 widths and areas so used, during the existence of the building
21 or structure erected under the provisions of this act.

Sec. 8. A justice of the peace, mayor or police judge shall
2 have jurisdiction within his county in a prosecution for a violation
3 of any provision of the foregoing act.

Chapter Penalties.

Sec. 9. Whoever being the owner of, having control
2 as an officer, or as a member of a board or committee or other-
3 wise of any building mentioned in this act violates any of the
4 provisions hereof or fails to conform to any of the provisions,
5 or fails to obey any order of the state fire marshal, chief in-
6 spector or hotels and factories or building inspector or com-
7 missioner in cities having a building inspection department, or
8 the state board of health in relation to the matters and things
9 in this act contained shall be guilty of a misdemeanor and upon
10 conviction thereof shall be fined not more than one thousand dol-

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11 lars and not less than ten dollars and stand committed until said
12 fine and costs be paid, or secured to be paid, or until otherwise
13 discharged by due process of law.

Sec. 10. Any architect who shall violate or assist in the vio-
2 lation of any of the provisions of this act or any order issued there-
3 under shall be guilty of a misdemeanor and upon conviction there-
4 of shall be fined not more than one thousand dollars and not less
5 than ten dollars and to stand committed until said fine and costs

6 are paid, or secured to be paid, or until otherwise discharged by
7 due process of law.

Theaters and Assembly Halls.

Sec. 11. Under the classification of "theatres" are included all
2 buildings or parts of buildings in which persons congregate to
3 witness spectacular, vaudeville, burlesque, dramatic or operatic
4 performances, or other buildings or parts of buildings in which
5 scenery is used, or in which motion pictures are thrown upon the
6 canvas, screens or walls. Under the classification of "assembly
7 halls" are included all buildings or parts of buildings in which
8 persons are assembled for entertainment or amusement, including
9 halls used for lodge rooms or dancing, and, all places where per-
10 sons congregate to hear speakers or lecturers, to listen to operas,
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11 concerts or musical entertainments in which no scenery is used
12 and no motion pictures are thrown upon canvas, screens, or walls,
13 and seating or accommodating one hundred or more persons.

Sec. 12. The highest point of the main auditorium foyer of
2 any theatre shall not be more than three feet above and in no case
3 below the grade line of the building at the main entrance. Theatres
4 seating more than one thousand persons and theatres with one or
5 more balconies shall be of fire proof construction, except the work-
6 ing part of the stage, viz. the stage floor between the jams of the
7 proscenium opening from the curtain line to the rear wall of the
8 stage which shall be of mill or fire-proof construction. Theatres
9 seating one thousand persons or less and containing no balcony
10 shall be fireproof or composite construction, except the working
11 part of the stage floor which shall be of mill construction or better.

12 Assembly halls accomodating more than one thousand persons,
13 and assembly halls with one or more balconies shall be of fireproof
14 construction.

15 Assembly halls accomodating one thousand persons or less, and
16 containing no balcony shall be of fireproof or composite construc-
17 tion.

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18 In the above mentioned assembly halls the highest point of
19 the main auditorium foyer shall not be more than fifteen feet above,
20 and in no case below the grade line at the main entrance to the
20-a building.

21 Assembly halls accommodating less than seven hundred and
22 fifty persons, with no balcony, with the highest point or the main
23 auditorium floor not more than four feet above the grade line at
24 the main entrance, and covering not to exceed six thousand square
25 feet of area; may be built of frame construction, providing all
26 parts below the first floor line are built of composite construction
27 and the building is erected in the "urban" district thirty feet from
28 any other building or structure, or adjoining lot lines, and at least
29 two hundred feet outside of the city fire limits.

30 Assembly halls accomodating not more than seven hundred
31 persons and with not more than one balcony, may be placed in
32 the second story of a building of fireproof construction, providing
33 the highest point of the main auditorium floors is not more than
34 twenty feet above the grade line at the main entrance to the
35 building.

36 Assembly halls accomodating not more than four hundred
37 persons and with no balcony, may be placed in the third story of
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38 a building of fireproof construction, providing the highest point
39 of the main auditorium floor is not more than thirty-five feet
40 above the grade line at the main entrance to the building.

41 Assembly halls accommodating not more than four hundred
42 persons and with no balcony may be placed in the second story of
43 a building of composite construction, providing the highest point
44 of the main auditorium floor is not more than twenty feet above
45 the grade line at the main entrance to the building. *Provided,*
46 that where an assembly hall or lodge room is built in connection
47 with and as a part of a club or lodge building, and is used by the
48 members of a club, society or lodge for private gatherings, and is
49 not rented or let out for the use of the general public, the follow-
50 ing exceptions to the requirements are made, viz: An assembly
51 hall or lodge room accomodating not to exceed nine hundred per-
52 sons, with one balcony, may be placed in the second story of a
53 building of fireproof construction providing the main floor level
54 is not more than twenty feet above the grade line at the main
55 entrance to the building.

56 An assembly hall or lodge room accomodating not to exceed
57 five hundred persons, with one balcony, may be placed in the third
58 story of a building of fireproof construction providing the main

59 floor level is not more than thirty-five feet above the grade line
60 at the main entrance to the building.

61 An assembly hall or lodge room accommodating not to exceed
62 two hundred and fifty persons, with no balcony, may be placed in
63 the fourth story of a building of fireproof construction providing
64 the main floor level is not more than forty-five feet above the
65 grade line at the main entrance to the building.

66 An assembly hall or lodge room accommodating not to exceed
67 six hundred persons, with no balcony, may be placed in the second
68 story of a building of composite construction providing the main
69 floor level is not more than twenty feet above the grade line at
70 the main entrance to the building.

71 An assembly hall or lodge room accommodating not to exceed
72 three hundred persons, with no balcony, may be placed in the
73 third story of a building of composite construction providing the
74 main floor level is not more than thirty-five feet above the grade
75 line at the main entrance to the building.

76 An assembly hall or lodge room accommodating not to ex-
77 ceed four hundred persons, with no balcony, may be placed in the
78 second story of a building of frame construction providing such
79 building is located in a strictly rural district, not nearer than
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80 one hundred feet to any other structure, and is provided with
81 the proper exits prescribed by law.

Sec. 13. No theater or motion picture show room shall be less
2 than eighteen feet wide, measuring the clear between the walls,
3 nor less than thirteen feet high, theatres or motion picture show
4 rooms from twenty to thirty feet wide, measuring in the clear be-
5 tween the walls, and not over one hundred feet long, measuring
6 between the outside of the front and rear walls, and theatres and
7 assembly halls seating not more than three hundred persons shall
8 have in addition to the main entrance either the rear or other side
9 wall abutting upon a street, alley or open court. The width of the
10 above street, alley or open court shall be not less than six feet.

11 Auditoriums in theatres and assembly halls built in excess
12 of the above dimensions shall have in addition to the main en-
13 trance two walls abutting upon streets, alleys or open courts. The
14 width of such streets, alleys or open court shall be not less than
15 eight feet where the seating capacity is not over one thousand
16 persons; above one thousand add one foot for each additional five

17 hundred or part thereof. Said streets, alleys or open court shall
18 be of such length as to receive and connect with all exits, doors.
19 fire escapes and stairways leading thereto. The said courts or
20 passageways shall not be used for storage or other purposes what-
21 soever, except for egress and ingress.

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Sec. 14. Theatre and assembly halls built in connection with or
2 as part of a building used for other purposes than a theatre or
3 assembly hall, shall have all of its various parts separated from
4 any other building or part of building by standard fire walls, or
5 by fireproof walls, ceiling and floors, and all communicating
6 openings between the theatre or assembly hall and the other parts
7 of the building shall be covered by double standard fireproof
8 doors. If these openings are used or liable to be used as a means of
9 ingress or egress, a standard self-closing fire-door shall be placed
10 on one side of the wall, and either a standard automatic rolling
11 steel shutter or a standard automatic fire door shall be placed on
12 the other side of the wall. The automatic shutters or doors being
13 kept open during the occupancy of the building. *Provided*, that
14 where an assembly hall is built in connection with a necessary
15 adjunct to a church, school building, lodge building, club house,
16 hospital or hotel, and is designated principally for the use of the
17 occupants of such buildings, the above mentioned standard fire
18 walls or fire-proof walls, ceilings and floors will not be necessary;
19 *providing, further*, that the construction of the other parts of the
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20 building is of the same, or of a better grade than the assembly
21 hall. No theatre or assembly hall shall have any door or window
22 connecting directly with any sleeping or living room of a tenement
23 or dwelling house, and no theatre or assembly hall shall be used for
24 living or sleeping purposes.

Sec. 15. The stage, if containing movable scenery, shall
2 be separated from the auditorium by brick or monolithic
3 concrete walls not less than twelve inches thick and
4 the said wall shall extend the entire width of the building. In
5 buildings of fireproof construction this wall shall extend to the
6 highest roof adjoining the same, and in building of composite con-
7 struction the wall shall extend not less than four feet above the
8 roof of the stage, and not less than six feet above the roof of the
9 auditorium, as the case may be. The curtain wall under the pros-

10 cениum opening shall be of brick or monolithic concrete not less
11 than twelve inches thick, be placed under the center of the curtain,
12 and be built up close to the under side of the finished stage floor.
13 There shall be no openings in this wall above the stage floor
14 level except the proscenium opening and one communicating
15 opening between the stage and the auditorium and not more than
16 two openings below the stage floor level. The proscenium open-

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17 ings shall be covered by a fire curtain as hereinafter specified, and
18 all other openings by standard automatic or self-closing fire doors.
19 The latter openings shall not exceed twenty-one square feet each.
20 the wall over the proscenium opening shall be carried by a fire-
21 proof steel girder with a relieving arch above, or by a brick
22 arch of sufficient capacity and abutments on each side of the open-
23 ing to insure stability against the thrust of the arch.

Sec. 16. No scene dock, workshop, storage or general property
2 room shall be placed above the stage or auditorium of any theatre,
3 or in any fly gallery. Scene docks, workshops, storage and general
4 property rooms shall be enclosed by masonry or standard fireproof
5 walls, and all openings in the above walls shall be provided with
6 standard selfclosing or automatic fire doors, or standard automatic
7 rolling steel shutters placed on both sides of the wall. If scene
8 docks, workshops, storage or general property rooms are located
9 under the stage the same shall have standard fireproof ceilings
10 and floors.

Sec. 17. All walls separating the dressing rooms from the stage
2 or other parts of the building, together with all partitions dividing
3 or surrounding the same shall be standard fire walls. The dressing
4 rooms shall be separated from the other parts of the building

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5 by self-closing or automatic standard fire doors. If the dressing
6 rooms are placed under the stage, the dressing room including the
7 corridors or passageways connected thereto shall be of fireproof
8 construction, and all openings connected thereto shall be of fire-
9 proof construction, and all openings into the appartments contain-
10 ing the same shall be covered by standard self-closing fire doors.
11 No dressing or employee's room shall be placed more than one
12 story below the grade line, and no dressing room shall be placed
13 above or below the auditorium. All dressing rooms shall be well

14 ventilated by windows opening into areaways, streets, alleys or
15 open courts.

Sec. 18. Furnances, hot water heating boilers and low pressure
2 steam boilers may be located in the buildings; *provided*, that the
3 heating apparatus, breeching, fuel room and firing room are in-
4 closed in a standard fireproof heater room and all openings into
5 the same are covered by standard self-closing fire doors. No boiler
5-a or furnace shall be located under the auditorium, lobby, passage-
6 way, stairways, exits of a theatre; or, under any exit, passage-
7 way or lobby of an assembly hall. No cast iron boiler carrying
8 more than ten pounds pressure or steel boiler carrying more than

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9 thirty-five pounds pressure shall be located within the main walls
10 of any theatre or assembly hall.

Sec. 19. No smoking room shall connect with, or be entered
2 directly from any auditorium of a theatre or assembly hall.

Sec. 20. The plan of seats shall be clearly marked showing the
2 maximum number of persons to be accommodated in the various
3 parts of the building. All seats, chairs and benches in the auditori-
4 um, balcony and gallery shall be spaced not less than two feet five
5 inches from back to back, measuring horizontally. The average
6 width of seats or chairs measuring from center to center of arms
7 shall be not less than nineteen inches, and in no case shall a seat be
8 less than eighteen inches. If benches are used, the seating capacity
9 of the same shall be established by allowing one sitting or seat to
10 each fifteen inches of length or fraction thereof. All seats, chairs
11 and benches (except chairs in boxes or loggias) shall be securely
12 fastened to the floor. Boxes or loggias shall be so designed, or
13 if necessary, shall be provided with rails which will prevent the
14 seats or chairs from being pushed or knocked into the aisles.
15 No seat shall have more than six seats between it and the aisle
16 on either side.

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Sec. 21. Aisles with seats on both sides of same shall not be
2 less than three feet in width and aisles with seats on one side of
3 the same not less than two feet wide at the beginning, and shall be
4 increased in width toward the exits at the ratio of one inch to five
5 feet of run. Aisles not less than two feet six inches wide shall be
6 placed between banks of seats and the front of the boxes or loggias.
7 Main aisles must connect with side wall exits by cross aisles of

8 the same width. Cross aisles shall run from wall to wall and in-
9 tersect with all main aisles, and to be not more than sixty feet
10 apart.

Sec. 22. No false openings giving the appearance of a door or
2 window where none exists shall be placed in any part of a theatre
3 or assembly hall used by the general public.

Sec. 23. No mirror shall be placed in any part of a theatre or
2 assembly hall used by the general public, except in the women's
3 and men's retiring and toilet rooms.

Motion Picture Machine and Booth.

Sec. 24. By the term "motion picture machine" is meant any
2 machine or device operated by or with the aid of electricity, adapt-
3 ed and used to project upon a screen, or other surface, pictorial
4 representations of any character which the public are admitted to

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5 view, upon payment of admission fee. Every motion picture
6 machine shall, before being operated, be installed in a room, com-
7 partment or booth, constructed entirely of fire resistive material;
8 said room, compartment or booth shall be ventilated to the outside
9 air, and all openings in the same shall be equipped with automatic
10 devices designated to promptly close all of said openings with fire
11 resistive doors in case of fire within said room, compartment or
12 booth. Said fire resistive material shall include brick, tile, con-
13 crete, metal or hard asbestos board, or asbestos building lumber.
14 Where the room, compartment or booth is composed of metal or
15 hard asbestos board, or asbestos, or solid metal lath or plaster
16 building lumber, it shall be constructed and equipped as follows:
17 The framing shall be of not less than one inch by one inch by one-
18 eighth inch angle iron, properly braced to secure rigidity and
19 securely riveted or bolted at joints. The size of this
19-a booth shall be at least six feet high, six feet long
20 and five feet wide where only one machine is to be installed. When
21 more than one machine is to be placed or operated the room, com-
22 partment or booth shall not be less than six feet high, six feet
23 wide and eight feet long. The sheathing shall be of metal not less
24 than twenty B. & S. gauge, or one-quarter inch hard asbestos board.
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25 or asbestos building lumber securely riveted or bolted to angle iron
26 frame. The floor shall be of the same material as sides and roof.
27 riveted or bolted to iron frame, covered with a rubber cork mat-

28 ting. The door opening shall not be larger than two feet by five
29 feet. The door shall be of the same construction as booth and ar-
30 ranged to close automatically, either by means of a spring to be
31 placed on the exterior and riveted to the frame work, or by a metal
32 rope and weight attachement; door shall overlap sides, top and
33 bottom at least three inches. Two latches of steel shall be provided,
34 and be placed one twelve inches from top and the other twelve
35 inches from bottom of door. Latch bars shall be connected by
36 metal rod, so that one operation opens both latches. The door
37 shall be so constructed and braced, and corners reinforced by fillet
38 angles as to prevent buckling. *Provided, however,* that a door con-
39 structed of two thicknesses of well seasoned white pine, or similar
40 non-resinous wood, dressed to thirteen-sixteenths inch (full) layers
41 of boards, to be at right angles and covered with double locked seam
42 tin plate and arranged to close as specified herein, may be used in
43 lieu of the above.

44 Opening for operator's view and through which pictures are
45 thrown shall be provided with a gravity door of at least one quarter

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46 inch boiler iron, so arranged as to close all openings; held in
47 position by fusible links, placed in series, with fine cord so arrang-
48 ed that normally one of the links is suspended directly over the
49-58 film or magazine when inside of the apparatus, or arranged so as
59 to be normally closed and held open by the pressure of the operat-
60 or's foot. All shelves, furniture and fixtures within the said booth
61 shall be constructed of incombustible material, and no material
62 of any sort whatever of a combustible nature, shall be permitted
63 or allowed to be within such booth, except the films used in the
64 operation of the machine. Each booth shall have an opening not
65 less than ten inches in diameter for ventilating, which shall be
66 flanged to carry a standard conductor pipe for exhausting the hot
67 air generated in operating the machine. Connection shall be made
68 with chimney or the outer air. Conductor pipe shall be riveted to-
69 gether, and the outer end arranged so that escaping gases or
70 flames will not come in contact with combustible material. All
71 machines shall be equipped with feed and take up reels in metal
72 receiving boxes and joints of same shall be riveted or flanged. A
73 shutter shall be placed in front of the condenser.

Sec. 25. The stage, if containing movable scenery shall be provided with one or more ventilators placed near the center and
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3 above the highest point of the stage, extending at least six feet
4 above the stage roof, of a combined area equal to at least one-eighth
5 the area of the stage floor. The openings in such ventilators shall
6 be closed by valves, leavers or dampers, so counterbalanced as to
7 open automatically, and so constructed that ice or snow will not in-
8 terfere with their operation; or, the roof of these ventilators may
9 be made in the form of sliding doors; *provided* all tracks, wheels
10 and working apparatus is so placed as to protected from snow
11 and ice. All valves, levers, dampers or doors shall be held closed
12 by a cotton cord, running to and connecting with the stage floor
13 close to each stage exit door. Fusible links shall be inserted in
14 these cords close to each ventilator, ten feet above the stage floor
15 and midway between these two points. If glass is placed in the
16 ventilator a wire screen of one-half inch mesh shall be suspended
17 under the ventilator and be placed not less than three feet below the
18 soffit of the roof.

Sec. 26. The proscenium openings in theatres when scenery
2 is used shall be provided with a fire-proof rigid curtain of asbestos
3 or other fire-proof material, approved by the chief inspector of the
4 state of West Virginia, or the building inspector or commissioner
5 in cities having building inspection departments, curtain shall

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6 overlap the brick prosenium wall at each side not less than eight
7 inches and at the top not less than two feet, and slide vertically
8 at each side within iron grooves or channels; said grooves or chan-
9 nels to be made of iron or steel of not less than one-quarter inch in
10 thickness, be securely bolted to the brick wall and extend to a
11 height of not less than two feet above the top of the curtain when
12 raised to its full limit. Said curtain shall be suspended or hung
13 by steel cables passing over ball-bearing iron or steel sheaves sup-
14 ported by wrought iron brackets of sufficient strength and well
15 braced, and brackets shall be securely attached to the proscenium
16 wall by through bolts with nuts and washers on the opposite side
17 of the wall. Said curtain shall be raised at the commencement and
18 lowered at the close of each performance. No oil paint shall be
19 used on any asbestos curtain.

Sec. 27. The means of ingress to theatres shall be at the ratio of one foot eight inches in width to each one hundred persons to be accommodated. In theatres requiring but one entrance, the same shall be not less than six feet wide in the clear.

Sec. 28. The means of egress from theatres shall not be less than the following and shall be provided in addition to the usual means of ingress. From the main or auditorium floor level one
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four six-foot side exit door shall be provided on each side, or side and end of the auditorium to each five hundred persons or fraction thereof. Where two exit doors are required on each side, one shall be located near the front and the other near the rear wall of the auditorium. Where more than two exit doors are required on each side, one shall be located near the front wall, one near the rear wall, and the others equally spaced between the two. If these exit doors are above or below the grade line the same shall be provided with stone, cement or iron steps leading to the grade line. Steps shall be not less than six feet wide. From each balcony or gallery one exit door four feet wide shall be provided on side of each balcony and gallery to each three hundred persons or fraction thereof. These exit doors from balconies and galleries shall lead to standard fire escapes. Not more than one exit door shall connect with any fire escape. *Provided*, that theatres from twenty-five to thirty feet wide, not over one hundred feet long and seating not over three hundred persons, shall have one four-foot wide exit door from the main auditorium to the side or rear street, alley or open court, and one three feet and four inches wide exit door from the balcony to a standard fire escape. In lieu of fire escapes inclosed fire-proof stairways may be used. And

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inclosed fire-proof stairway four feet wide will be the equivalent to one fire escape, and if six feet wide will be the equivalent to two fire escapes. All stairways and tunnels and all door and window openings leading to fire escapes, inclosed fire-proof stairways or fire ladders not hereinafter specified to be marked by illuminated signs, shall have painted signs on or above the same indicating the word "exit" in plain block letters not less than six inches high, painted a bright red.

Sec. 29. The seating capacity shall be established by the actual number of persons to be accommodated in seats, benches and

3 pews where the same are used, and where not used the capacity
4 shall be established by allowing for each person six square feet
5 of floor area, except in dining rooms and dance halls where the
6 allowance of floor area per person shall be fifteen square feet. In
7 establishing the widths of the exits it shall be assumed that the
8 audience in each room, balcony or apartment will be equally dis-
9 tributed to the various means of egress. The usual means of
10 ingress may be considered as a means of egress. Each room, bal-
11 cony, stage or apartment shall have not less than two separate and
12 distinct means of egress where the seating capacity is less than four
13 hundred persons, and when exceeding four hundred persons one
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14 additional means of egress shall be provided to each two hundred
15 persons or fraction thereof. Means of egress shall be provided
16 at the ratio of two feet in width to each one hundred persons,
17 and no one room to have less than six feet. All stairways, tun-
18 nels and exit doors shall have painted signs on or above the same
19 indicating the word "exit" in plain block letters not less than six
20 inches high.

Sec. 30. The width of stairways in theatres used as a means of
2 ingress shall be at the ratio of one foot eight inches to each one
3 hundred persons to be accommodated. No stairways shall be less
4 than three feet six inches wide, measuring between the hand rails.
5 Where more than one stairway is required for any one tier or
6 level they shall be located as far apart as possible. Stairways
7 used by the general public shall have a uniform rise of not more
8 than seven inches and a uniform tread of not less than ten and
9 one-half inches. The above dimensions shall be from riser to riser
10 and from tread to tread. No riser shall be less than five inches.
11 No stairway shall have more than sixteen nor less than three
12 risers in any run. No winders shall be used and all nosings shall
13 be straight. Outside steps and areaways shall be provided with
14 guard rails not less than two feet six inches high. A uniform

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15 width shall be maintained to all stair and stair platforms used by
16 the general public by rounding or beveling the angles and cor-
17 ners. No doors shall open directly upon a stairway, but shall
18 open upon a platform or landing equal in length to the width of the
19 door. All stairways leading directly from the basement to the
20 stage shall be enclosed by standard fire-proof walls and the open-

ings from the basement to the same shall be covered by standard self-closing-fire doors. No stairways used by the general public shall be placed over any basement stairway, unless the basement stairway is enclosed in fire-proof walls, and the ceiling or soffit over the same is of fire-proof construction, and all openings to the basement stairway are provided with standard self-closing or automatic fire doors. No closet for storage shall be placed under any stairway. No stairway used by the general public shall lead downward to a platform and then upward to a new level or visa versa except the steps in the balcony and gallery aisles. Stair treads shall be either carpeted or be covered with rubber or lead mats securely fastened to place, or the tread shall be formed of a non-slipping surface. Where stairways are required in theaters, inclines or gradients may be used providing the same are supplied of the width, in the number, and are located as prescribed H. B. No. 393]

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for stairways. The pitch of incline or gradient shall not exceed one foot in rise in twelve feet of run.

All stairways for assembly halls shall be enclosed by masonry or fire-proof walls, with fire-proof ceiling over and a fire-proof floor below the stair well, and all openings into the same shall be fitted with standard self-closing fire doors. Widths of stairways shall be at the ratio of three feet per hundred persons to be accommodated. Otherwise stairways and inclines shall be constructed and equipped the same as required for theatres.

Sec. 31. All lobbies or entrances to theatres shall be level or flush with the sidewalk. To overcome any difference in levels in and between courts, corridors, lobbies, passageways, auditorium and aisles on the ground floor, gradients shall be employed. Gradients in auditorium aisles shall not exceed one foot in rise to five feet in run, and no other gradient or incline shall exceed one foot in rise to twelve feet in run. Sills at all exits shall be so designed as to be level and flush with the adjacent floors.

Sec. 32. Halls, foyers and passageways shall be so designed and proportioned so as to prevent congestion and confusion. No hall, foyer, or passageway leading to a stairway or exit shall be less in width than the width of the stairway or exit, and in no

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case less than four feet wide. Any stairway, corridor or passageway shall be of equal capacity to the aggregate width of all stair-

7 ways, corridors or passageways which it serves as a means of egress.

Sec. 33. Elevators shall be inclosed by standard fire walls, or
2 by fire-proof walls, ceilings and floors, and all openings into the
3 same shall be covered by standard fire doors for elevators. Eleva-
4 tors shall not be considered or computed as a means of egress.

Sec. 34. No door used as a means of egress shall be less than
2 three feet wide. No single door or leaf to a double door shall be
3 more than four feet wide. No two doors shall be hinged together.
4 Where exit doors more than four feet wide are required the open-
5 ings shall be provided with two doors. No exit door shall be less
6 than six feet four inches high. All exit doors shall be level with the
7 floor, swing outward, viz: toward the open or toward the natural
8 means of egress, and be so hung as not to interfere with passage-
9 ways or close other openings, stairways or fire escapes. Exit
10 windows and windows leading to standard fire escapes shall have
11 the lower sash hinged at the side to swing out, or hung on weights
12 to raise. This sash shall be not less than two feet six inches
13 wide, not less than three feet high, and not more than two feet
14 above the floor level.

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Sec. 35. The working part of stage floor, namely, the width
2 of the proscenium opening by the depth of the stage, shall be of a
3 mill construction or better. Foot light troughs, if not made of
4 fire-proof materials, shall be lined with tin or other noncombustible
5 materials.

Sec. 36. In calculating construction the superimposed loads
2 on the various floors and roof shall be assumed as follows: In
3 auditoriums with fixed seats, eighty pounds per square foot. In
4 auditoriums with movable seats, one hundred pounds per square
5 foot. In halls used for dancing, one hundred and fifty pounds
6 per square foot. In lobbies, passageways, stairways and corri-
7 dors, one hundred pounds per square foot. In dressing rooms,
8 fifty pounds per square foot. On the stage, two hundred and fifty
9 pounds per square foot. In scene docks, one hundred pounds per
10 square foot. On gridiron, seventy-five pounds per square foot.
11 In property rooms, one hundred pounds per square foot. In attics
12 not used for storage, twenty pounds per square foot. On roofs,
13 forty pounds per square foot.

Sec. 37. A heating system shall be installed which will uni-
2 formly heat all parts of the building to a temperature of sixty-five

3 degrees in zero weather. All parlors, retiring, toilet and check
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4 rooms, and all assembly halls used in connection with and a nec-
5 essary adjunct to a church, school building, club house, hospi-
6 tal or hotel shall be heated by an indirect system combined with
7 a system of ventilation which will change the air not less than six
8 times per hour. All other assembly halls and theatre auditoriums
9 shall be heated and ventilated by a system which will supply to
10 each auditor not less than one thousand two hundred cubic feet
11 of air per hour. The system to be installed where a change of air
12 is required shall be either a gravity or mechanical furnace system,
13 gravity indirect steam or hot water, or a mechanical indirect
14 steam or hot water system. No stove or open grate shall be
15 used in any theatre or assembly hall, except water heaters, fur-
16 naces and boilers. No stove pipe shall be more than five feet
17 long measuring horizontally, unless the same be enclosed in a
18 standard fire-proof heater room, nor shall any stove pipe come
19 closer to any combustible material or ceiling than three feet. The
20 fresh-air supply shall be taken from outside the building and no
21 vitiated air shall be reheated. The vitiated air shall be conducted
22 through flues or ducts to and be discharged above the roof of
23 the building. No floor register for heating or ventilating shall
24 be placed in any aisle or passageway. No coil or radiator shall be
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25 placed in any aisle or passageway used as an exit, but said coils
26 and radiators may be placed in recesses formed in the wall or
27 partitions providing no part of the radiator or coil projects beyond
28 the wall line.

Sec. 38. Theatres and assembly halls seating or accommodat-
2 ing three hundred or more persons shall be provided with a
3 sanitary equipment as follows: Where water supply and a sew-
4 erage system are available a sanitary equipment shall be installed
5 as follows: Separate water closets in connection with the stage
6 shall be provided for males and females. Separate toilet rooms
7 in connection with the auditorium shall be provided for males
8 and females in each tier or level and in these shall be installed the
9 following fixtures, viz., one water closet to each one hundred
10 females or less; one water closet to each two hundred males or
11 less; and one urinal to each two hundred males or less. The
12 above number of fixtures shall be based upon the maximum seat-

ing capacity, and it shall be assumed that the audience will be equally divided between males and females.

Sec. 39. No fixed or portable oil lamps shall be used in or about any stage containing scenery. Oil lamps may be used for illuminating theatre auditoriums or assembly halls when electric current or gas is not available, providing the same are placed not less than six feet above the floor line, not less than three feet below the ceiling, not less than one foot from any wall and are rigidly supported.

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rent or gas is not available, providing the same are placed not less than six feet above the floor line, not less than three feet below the ceiling, not less than one foot from any wall and are rigidly supported.

Sec. 40. No gas lighting of any kind shall be used on any stage containing scenery (except for exit lights) nor in any property room, storage room, scene dock or fly gallery. Gas may be used for illuminating all other parts of theatre and assembly halls. Under "emergency lights" are included exit lights and all lights in lobbies, stairways, corridors and other parts of the theater or assembly hall to which the public have access, which are normally kept lighted during the performance. Where gas is used for emergency lights, the outlets shall be placed, equipped with signs, and be kept burning as called for under electric work. Each gas supply main shall be provided with a properly installed service cock placed outside of the building. No swinging or movable gas fixtures or brackets shall be used.

Sec. 41. Where approved devices are mentioned the same shall be of such material, construction, mechanism and design as prescribed under the inspection rules and tests specified in the electric code. In assembly halls in which the auditorium is kept lighted

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during the entire performance of entertainment all wiring shall be done in approved conduit and be installed according to the electric code.

Sec. 42. All entrance and exit doors shall be equipped with hardware of such a nature as to be always unlockable from within. Single outside doors, used for exit purposes only, shall have a one-knob latch or double extension bolt, as hereinafter mentioned, and no bolts, hooks or other locking device shall be used on these doors. Single outside doors used for ingress and egress shall have key locks that can be locked from the outside only, but can always be opened from the inside by simply turning the knob or lever, or by pushing against a bar or plate. No light lock

10 attachment shall be placed in the face of these locks or other bolts,
11 hooks, thumb latch or other locking device shall be used. One of
12 each pair of outside or inside double doors shall have a double
13 extension bolt on same, bolts to be operated by knob, lever, push
14 bar, push plate, push handle or other device whereby the simple
15 act of turning a knob or lever or pushing against a bar, plate
16 or handle will release the top and bottom bolts at the same time.

Sec. 43. Summer theatres or air domes if built in "urban"
2 districts located thirty feet distant from any other building or
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3 structure, or adjoining lot lines, and at least two hundred feet
4 outside of the city fire limits, of no greater seating capacity than
5 seven hundred and fifty persons, not more than one story high,
6 without balconies or galleries, may be constructed as follows:
7 The auditorium without a cellar or basement, with open sides or
8 double the means of ingress and egress hereinbefore provided,
9 opening directly into the surrounding courts or gardens at the
10 grade level, may be built of frame construction providing the entire
11 interior of the building, including the stage, dressing rooms, prop-
12 erty rooms, scene dock, storage rooms and auditorium are lathed
13 with metal lath and are plastered. No tent, awning or similar
14 device shall be used as a roof covering over the auditorium,
15 otherwise summer theatres and air domes shall be constructed
16 and equipped as previously mentioned under this title.

Sec. 44. No roof garden or roof theatre shall be placed on the
2 roof of any building unless the entire building is of fire-proof
3 construction, and no part of the said roof garden or roof theatre
4 shall be enclosed by walls or (be) covered by roofs except the
5 stage and the necessary appurtenances thereto.

School Buildings.

Sec. 45. Under the classification of school buildings are in-
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2 cluded all public, parochial and private schools, colleges, acad-
3 emies, seminaries, libraries, museums and art galleries, includ-
4 ing all buildings or structures containing one or more rooms used
5 for the assembling of persons for the purpose of acquiring knowl-
6 edge, or for mental training.

7 *Grade A.* Under this grade are included all rooms or build-
8 ings appropriated to the use of primary, grammar or high schools,

9 including all rooms or buildings used for school purposes by pupils
10 or students eighteen years old or less.

11 *Grade B.* Under this grade are included all rooms or build-
12 ings appropriated to the use of schools, colleges, academies, semi-
13 naries, libraries, museums, and art galleries, including all rooms
14 or buildings.

Sec. 46. Where, in grade A, the main floor line is eight feet
2 or more above the grade line at any entrance to or exit from any
3 story above the basement, the basement shall be rated as the first
4 story. Stories over fifteen feet high, measuring from the floor
5 to the ceiling line shall be rated as two stories. All buildings
6 more than two stories high shall be of fire-proof construction.
7 All buildings two stories high and less shall be of fire-proof or

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8 composite construction. No school building of grade A shall
9 be built more than three stories high.

10 Where, in grade B, any floor level is more than twenty-six
11 feet above the grade line at any entrance to or exit from the build-
12 ings, the building shall be of fire-proof construction. Where the
13 floor levels are less than twenty-six feet above the grade line at
14 any entrance to or exit from the building shall be of composite or
15 fire-proof construction. No school building or grade B shall be
16 built more than five stories high nor shall the topmost floor level
17 be more than fifty feet above the grade line at any entrance to or
18 exit from the building. *Provided, however,* that this provision as
19 to the number of stories and the height of the topmost floor level
20 shall not apply to libraries in buildings of fire-proof construction
21 throughout. *Provided, further,* that all buildings one story high,
22 with the floor line not more than four feet above the grade line,
23 shall be of fire-proof, composite or frame construction, *provided,*
24 that, when built of frame construction the same is erected thirty
25 feet away from any other building, sub-structure or lot line, and
26 two hundred feet beyond the city fire limits.

Sec. 47. No building of grade B shall occupy more than ninety-
2 five per cent of a corner lot nor more than ninety per cent of an
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3 interior lot or site. No building of grade A shall occupy more
4 than seventy-five per cent of a corner lot nor more than seventy
5 per cent of an interior lot or site. The measurements being taken
6 at the lowest tier of floor joists. No wall of any building com-

7 ing under this classification containing windows used for lighting
8 school or class rooms shall be placed nearer any opposite build-
9 ing, structure or property line than thirty feet.

10 By "inner court" is meant an open shaft or court, surrounded
11 on all sides by walls. By recess court is meant an open-air shaft
12 or court, having one side or end opened, and when such opening
13 is on a lot line, it is an inner court. Recess or inner light
14 courts may be used, providing the least distance between any two
15 opposite walls containing windows for lighting class and school
16 rooms is equal to the height from the lowest window sill to the
17 top of the highest cornice or fire wall. All walls to inner or recess
18 courts shall be of masonry or other fire-proof construction (except
19 for buildings of frame construction). No inner or recess court
20 shall be covered by a roof, skylight, or other obstruction. If
21 areaways are used for lighting basements, the width of the area
22 shall be not less than equal to the height from the lowest window
23 sill to the top of the adjoining grade line.

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Sec. 48. Buildings of this classification built in connection
2 with a building of a lower grade construction, shall be separated
3 from the other parts of the building by (a) standard fire walls,
4 and all communicating openings in these walls shall be covered
5 by double standard fire doors, using self-closing door on one side
6 of the wall and automatic fire door or an automatic rolling steel
7 shutter on the other. The automatic shutters or doors for open-
8 ings used as a means of ingress or egress shall be kept open during
9 the occupancy of the building. All rooms or apartments used
10 for general storage, storing of furniture, carpenter shops, general
11 repairing, paint shops or other equally hazardous purposes shall
12 be constructed with fire-proof walls, ceilings, and floors, and all
13 openings between these rooms or apartments and the other parts
14 of the buildings shall be covered by double standard fire doors,
15 using a self-closing door on one side of the wall and an automatic
16 fire door or an automatic rolling steel shutter on the other. No
17 open wells communicating between any two stories shall be used,
18 except the necessary stair and elevator wells. All exterior and
19 court walls of buildings coming under this classification (except
20 buildings of frame construction) within thirty feet of any other
21 building, structure or lot line shall be provided with the follow-
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ing fire stops, namely: Walls shall be standard fire walls. All windows shall be automatic standard fire-proof windows, and all door openings shall be covered by standard hinged fire doors without any automatic attachments.

Sec. 49. Furnaces, hot-water heating boilers and low pressure steam boilers may be located in the buildings, providing the heating apparatus, breeching, fuel room and firing room are inclosed in a standard fire-proof heater room, and all openings into the same are covered by standard self-closing fire doors. No boiler or furnace shall be located under any lobby, exit, stairway or corridor. No cast-iron boiler carrying more than one hundred pounds pressure or steel boiler carrying more than thirty-five pounds pressure shall be located within the main walls of any school building.

Sec. 50. No rooms used for school purposes shall be placed wholly or partly below the grade line. Rooms for domestic science, manual training and recreation may be placed partly below grade, *provided*, the same are properly lighted, heated and ventilated.

Sec. 51. The minimum floor space to be allowed per person in school and class rooms shall not be less than the following, namely:

Primary grades, fifteen square feet per person.	Grammar grades,
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sixteen square feet per person.	High schools, seventeen square
feet per person.	All other schools and class rooms, twenty square
feet per person.	The gross cubical contents of each school and
class room, shall be of such size as to provide for each pupil or	person not less than the following cubic feet of air space, namely:
Primary grades two hundred cubic feet.	grammar grades two
hundred and twenty-five cubic feet,	high schools two hundred and
fifty cubic feet and in grade B buildings three hundred cubic	feet.

Toilets, play and recreation rooms shall not be less than nine feet high in the clear measuring from the floor to the ceiling line. The height of all rooms, except toilet, play and recreation rooms shall not be less than one-half the average width of the room, and in no case less than ten feet high. The plans shall be clearly marked showing the maximum number of pupils or persons to be accommodated in each room.

Sec. 52. A room seating or accommodating more than one hundred persons shall be considered as an assembly hall. No

3 assembly hall in a building of grade A shall be located above the
4 second story in a building of fire proof construction, nor above the
5 first story in a building of composite construction. Otherwise
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6 assembly halls shall be constructed and equipped as called for
7 under assembly halls.

Sec. 53. Seats, chairs and desks placed in class, recitation,
2 study and high school rooms seating more than fifteen persons,
3 shall be securely fastened to the floor. Desks and chairs used by
4 the teachers may be portable.

5 Assembly hall seats and aisles shall be called for under assembly
6 halls. Class and school rooms shall have aisles on all wall sides.
7 In primary rooms center aisles shall not be less than seventeen
8 inches and wall aisles not less than two feet four inches wide.
9 In grammar rooms center aisles shall not be less than eighteen
10 inches and wall aisles not less than two feet six inches wide.
11 In high school rooms center aisles shall not be less than twenty
12 inches and wall aisles not less than three feet wide. In all other
13 class and school rooms center aisles shall not be less than twenty-
14 four inches and wall aisles not less than three feet wide.

Sec. 54. The proportion of glass surface in museums, libraries
2 and art galleries, shall not be less than one square foot of glass
3 to each six square feet of floor area. The proportion of glass in
4 each class, study, recitation, high school room and laboratory.
5 shall not be less than one square foot of glass to each five feet of
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6 floor area. Windows shall be placed either at the left or the
7 rear of the pupils when seated.

Sec. 55. All means of egress or exit, shall be exit doors unless
2 the same to A standard fire escapes, which shall be either exit
3 door or exit windows. Means of egress from rooms in the base-
4 ment and superstructure shall be in proportion to three feet in
5 width to each one hundred persons to be accommodated in build-
6 ing accomodating not more than five hundred persons. When
7 buildings accommodate from five hundred to one thousand per-
8 sons two feet additional exit shall be provided for each one hun-
9 dred persons or fraction thereof in excess of five hundred persons.
10 When buildings accommodate more than one thousand persons,
11 one foot additional exit width shall be provided for each one
12 hundred persons or fraction thereof in excess of one thousand

13 persons, but in no case shall an exit be less than three feet or more
14 than six feet wide. No inclosed standard fire-proof stairways or
15 fire escapes will be necessary for buildings of fireproof construc-
16 tion and all exits shall lead to the main corridors.

17 Each room in the superstructure used by pupils as a class or
18 school room, shall have at least two separate and distinct means
19 of egress. No class, school or high school room shall have more
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20 than one door or opening between it and the main halls or corri-
21 dors of the building. Communicating doors between two class or
22 school rooms shall not be considered as a means of egress. The
23 proportion of exits to the seating capacity shall not be less than
24 three feet to each one hundred persons to be accommodated. All
25 school buildings having corridors enclosed with fire-proof walls
26 and floors containing fire-proof stairways will be considered as
27 composite buildings.

28 Each room or apartment used for any purpose other than stor-
29 age shall have two separate and distinct means of egress. If the
30 various rooms connect directly with a hallway, means of egress at
31 each end of the hallway will be sufficient; *providing, however,*
32 that it is not necessary to pass one means of egress in order to
33 reach the other. These means of egress shall be either an inside
34 stairway running continuously from the grade line to the topmost
35 story, or from the basement to the grade line; standard fire
36 escapes; stone, cement or iron steps leading to the grade line;
37 or self-closing doors leading directly to the main corridor of an
38 adjoining section of the same building containing a stairway.
39 Means of egress shall be at the rate of three feet per hundred
40 persons to be accommodated. It is presumed that half the per-

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41 sons will go to either means of egress. In libraries, museums
42 and art galleries, the capacity of the building shall be established
43 by allowing each person fifteen square feet of floor area in all
44 lobbies, exhibition rooms, toilet rooms, corridors, stairs and other
45 public parts of the building.

46 Each room shall have at least, two three-foot exits, one leading
47 to the open with steps to the grade, and the other the usual means
48 of ingress; and all steps shall have hand rails on both sides. Over
49 each exit door shall be painted a sign indicating the word "exit"
50 in plain block letters not less than six inches high.

Sec. 56. Buildings of fire-proof construction shall have at least two stairways located as far apart as possible and the same shall be continuous from the grade line to the topmost story. The basement shall have at least two stairways located as far apart as possible and run from the basement floor level to the grade line, which stairway may be placed under the main stairway. No further means of egress will be necessary. Basement stairways shall be enclosed with either brick walls not less than six inches thick, or hollow tile walls not less than twelve inches thick, unless all openings in these stairways shall be provided with standard self-closing fire doors. The width of stairways required under this H. B. No. 393]

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classification shall be equally divided, one-half being placed in the main service stairway and the other escapes. No closet for storage shall be placed under any stairway.

In buildings of composite construction in grade B the stairways shall be separated from the other parts of the building by masonry or fire-proof walls, with fire-proof ceiling at the topmost story, with fireproof floor at the lowermost level, and all openings to these enclosures shall be provided with standard self-closing fire doors, unless stairways are fire-proof. The above enclosures shall be provided with grade line platforms, and with exit doors not less than three feet wide leading to the streets, alleys or open courts. No closet for storage shall be placed under any stairway.

The width of stairways shall be at the rate or ratio of three feet per one hundred persons accommodated in buildings accommodating not more than five hundred persons, when building accommodates from five hundred to one thousand persons two feet of additional stairway width shall be provided for every hundred persons or fraction thereof in excess of five hundred when buildings accommodate more than one thousand persons, one foot additional stairway width shall be provided for every hundred persons or frac-

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tion thereof in excess of one thousand persons. No stairway shall be less than three feet six inches nor more than six feet wide measuring between the hand rails. Stairways over six feet wide shall have substantial center hand rails with angle and newel posts not less than six feet high. No stairway shall have less than three nor more than sixteen risers in any run. No stairway

39 shall have winders and all nosing shall be straight. A uniform
40 width shall be maintained in all stairways and stair platforms.
41 Hand rails shall be provided on both sides of all stairways and
42 steps. Outside stairways and areaways shall be provided with
43 guard rails not less than two feet six inches high. Stairways shall
44 have a uniform rise and tread in each run as follows, namely:
45 Primary schools shall have not more than a six inch rise nor
46 less than eleven inch tread. Grammar schools shall have not
47 more than a six and one-half inch rise nor less than eleven inch
48 tread. All other schools shall have not more than a seven inch rise
49 nor less than ten and one-half tread. All dimensions shall be
50 from tread to tread, and from riser to riser.

51 No door shall open directly upon a stairway, but shall open on
52 a platform or landing equal in length to the width of the door.
53 In combination primary and grammar school buildings all stair-
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54 ways below the first floor level shall be designated for primary
55 school pupils and all stairways above the first level may be desig-
56 nated for either primary or grammar pupils. No closet for stor-
57 age shall be placed under any stairway. All treads shall be cov-
58 ered with rubber or lead mats or equal non-slipping surface.

Sec. 57. To overcome any difference in floor levels which
2 would require less than three risers, gradients shall be employed
3 of not over one inch rise in twelve inch run.

Sec. 58. No hall or passageway to a stairway or exit shall be
2 less in width than the stairway or exit, as the case may be. Halls
3 and passageways shall be so designed and proportioned as to
4 prevent congestion and confusion.

Sec. 59. Elevators shall be closed in standard fire walls or by
2 fire-proof walls, solid metal lath and plaster, ceilings and floors,
3 and all openings to the enclosures shall be covered by standard
4 fire doors for elevators.

Sec. 60. Exit doors shall not be less than three feet wide, nor
2 less than six feet four inches high, level with the floor, swing
3 outward, viz., towards the open, or towards the natural means of
4 egress, and shall be so hung as not to interfere with passageways
5 or close other openings. No single door or leaf to a double door

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6 shall be more than four feet wide. No two doors hinged together
7 shall be used as a means of ingress or egress. Accordion doors

8 may be used in dividing class rooms, providing the free sections
9 swing toward and give the required amount of exit width.
10 No double acting, rolling, sliding or revolving exit or entrance
11 doors shall be used. Exit windows leading to standard fire escapes
12 shall have the lower sash hinged to the side to swing out, or hung
13 on weights to rise. This sash shall not be less than two feet
14 six inches wide, not less than three feet high and not more than
15 two feet above the floor line.

Sec. 61. Every building exceeding twenty-five feet in height
2 shall have in the roof a bulk-head or scuttle not less than two
3 feet wide and not less than three feet long, covered on the out-
4 side with metal and provided with a stairway or permanent lad-
5 der leading thereto. Bulk-head and scuttle doors shall never be
6 locked.

Sec. 62. All floors to toilet rooms, lavatories, water closets
2 compartments, or any enclosure where plumbing fixtures are used
3 within the building, shall have a water-proof floor and base made
4 of non-absorbant indestructible water-proof material, namely:
5 asphalt, glass, marble, vitrified or glazed tile or terrazzo, or mono-
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6 lithic composition. The base shall not be less than six inches
7 high and shall have a sanitary cove at the floor level. All base-
8 ment rooms used by the pupils or public shall have a damp-proof
9 or water-proof floor. All basement ceilings except where con-
10 crete or brick is used, shall be plastered or be covered with metal
11 lath, pressed brick or rolled ceiling. Whenever possible, window or
12 door jambs shall be rounded and plastered, except in museums, li-
13 braries and art galleries. All interior wood finish shall be as small
14 as possible and free from unnecessary dust catchers. All floors
15 between the finished portions of the building shall be deadened
16 or made sound proof.

Sec. 63. In calculating construction distributed on the various
2 floors and roofs shall be assumed at not less than the following,
3 namely: Class rooms sixty pounds per square foot. Halls,
4 assembly halls, stairs and corridors, eighty pounds per square foot.
5 Museums, libraries and art galleries, one hundred pounds per
6 square foot. Attics not used for storage, twenty pounds per square
7 foot. Roofs forty pounds per square foot.

Sec. 64. A heating system shall be installed which will uni-
2 formly heat all corridors, play rooms, toilet rooms, recreation

3 rooms, assembly rooms, gymnasiums and manual training rooms

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4 to a uniform temperature of sixty-five degrees in zero weather;
5 and will uniformly heat all other parts of the building to seventy
6 degrees in zero weather. With the exception of rooms with one
7 or more open sides used for open air or outdoor treatment. The
8 heating system shall be combined with a system of ventilation
9 which will change the air in all parts of the building except the
10 corridors, halls and storage closets, not less than six times per
11 hour. The heating system to be installed where a change of air
12 is required shall be either standard ventilating stoves, gravity or
13 mechanical furnaces, gravity indirect steam or hot water. Where
14 wardrobes are not separated from the class room they shall be
15 considered as part of the class room and the vent register shall
16 be placed in the wardrobe. Where wardrobes are separated from
17 the class rooms, they shall be separated, heated and ventilated
18 the same as the class rooms. The bottom of warm air registers
19 shall be placed not less than eight feet above the floor line, except
20 foot warmers which may be placed in the floor of the main cor-
21 ridors or lobbies. Vent registers shall be placed not more than
22 two inches above the floor line.

23 The fresh air supply shall be taken from the outside of the
24 building and no vitiated air shall be re-heated. The vitiated air
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25 shall be conducted through flues or ducts and be discharged above
26 the roof of the building. A hood shall be placed over each and
27 every stove in the domestic science room, over each and every
28 compartment desk or demonstration table in the chemical labor-
29 atories and chemical laboratory lecture rooms, of such size as to
30 receive and carry off all offensive odors, fumes and gases. These
31 ducts shall be connected to vertical ventilating flues placed in the
32 walls and shall be independent of the room ventilation as pre-
33 viously provided for. Where electric current is available electric
34 exhaust fans shall be placed in the ducts or flues from the stove
35 fixtures in domestic science rooms and chemical laboratories, and
36 where electrical current is not available and a steam or hot water
37 system is used, the main vertical flues from the above ducts shall
38 be provided with accelerating coils of proper size to create suf-
39 ficient draught to carry away all fumes and offensive odors.

40 Where a water supply and sewerage system are available a

41 sanitary equipment shall be installed as follows: In the super-
42 structure of the building one sink and one drinking fountain
43 shall be installed on each floor to each six thousand square feet
44 of floor area or less. In the basement one sink and one drinking
45 fountain shall be installed on the males' side, and the same on the

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46 females' side to each three hundred and fifty pupils or less. Sinks
47 shall be the ordinary slop sinks, or in lieu of same, lavatories may
48 be used providing the waste plug or stopper has been removed.
49 Sanitary schoolhouse drinking fountains with jet giving a con-
50 tinuous flow of water shall be installed, and no tin cups or tumblers
51 shall be allowed in or about any school house.

52 In libraries, museums and art galleries there shall be provided
53 with the following fixtures, viz.: One water closet to each
54 one hundred females or less. One water closet to each one hun-
55 dred males, or less. One urinal to each two hundred males, or
56 less. The foregoing to be based upon the actual number of per-
57 sons to be accommodated, the capacity being established as pre-
58 scribed under section twelve, means of egress.

59 In all other school buildings there shall be provided the fol-
60 lowing fixtures, namely: one water closet for each fifteen females
61 or less. One water closet for each twenty-five males or less. One
62 urinal for each twenty-five males or less. Toilet accommoda-
63 tions for males and females shall be placed in separate rooms.
64 Juvenile or short closets shall be used for primary or grammar
65 grade schools. This does not apply when latrine closets are used.
66 In buildings accommodating males and females it shall be pre-
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67 sumed that the occupants will be equally divided between males
68 and females.

69 Where water supply and sewerage systems are not available no
70 sanitary equipment shall be installed within the building, but
71 pumps in lieu of drinking fountains, closets and urinals in the
72 above proportions shall be placed upon the school building grounds
73 and no closets or urinals shall be placed nearer any occupied build-
74 ing than fifty feet. Where pumps or hydrants are used the out-
75 let shall be inverted. Buildings more than three stories in height
76 shall be provided with toilet rooms in each story and basement
77 and urinals in the above required ratios in proportion to the num-
78 ber of persons to be accommodated in the various stories. Toilet

79 rooms for males shall be clearly marked "Boys' toilet" or "Men's
80 toilet" and for females "Girls' toilet" or "Women's toilet."

Section 65. A system of gas lighting if used shall be installed
2 as follows: All outlets in class and recitation rooms shall be
3 dropped from the ceiling and be equally distributed so as to uni-
4 formly light the room.

5 The number of burners provided shall not be less than the
6 following: In auditoriums one three foot burner to each fifteen
7 square feet of floor area. In the gymnasiums one three foot

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8 burner to each fifteen square feet of floor area. In halls and stair-
9 ways one three foot burner to each twenty-four square feet of
10 floor area. In class and recitation rooms one three foot burner
11 to each twelve square feet of floor area. Enclosed fireproof stair-
12 ways, service stairways, corridors, passageways and toilet rooms,
13 shall be well lighted by artificial light and said lights shall be
14 kept burning when the building is occupied after dark. Burners
15 shall be placed seven feet above the floor line. No swinging
16 or movable gas fixtures or brackets shall be used.

Sec. 66. All buildings with basement and all buildings over
2 one story high shall be provided with eight inch in diameter trip
3 fire gongs with connections enabling the ringing the same from
4 any story or basement. In semi-detached buildings gongs shall
5 be provided for each section and shall be connected up so as to
6 ring simultaneously from any story or basement of either section.
7 Gongs shall be centrally located in the main halls, and the operat-
8 ing cords shall be placed so as to be always accessible. *Except,*
9 *however,* in institutions for the deaf, electric lights with red
10 globes shall be placed near each teacher's desk, and these shall be
11 operated simultaneously by switches placed in each story and
12 basement.

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Standard Construction.

Sec. 67. Fireproof construction as a classification includes
2 such buildings as are built entirely of incombustible fire and
3 water proof material, and all metal structural parts thoroughly
4 fireproofed. When the height of the building measures from the
5 average grade line to the ceiling of the topmost story exceeds
6 seventy-five feet, the floors, doors, windows and the usual trim
7 of the rooms shall be of incombustible materials. When the

8 height of the buildings measuring from the average grade line to
9 the ceiling of the topmost story is seventy-five feet or less, the
10 floors, doors, windows and the usual trim of the rooms may be
11 of ordinary wood construction with no open air space behind the
12 wood.

Sec. 68. This classification includes such buildings as have the
2 enclosing walls and roof covering made of incombustible mater-
3 ials and wherein the post timbers are not less than 10x10 inches
4 except those supporting the roof, which may be 8x8 inches, the
5 main floor girders being not less than ten inches in width and
6 the girders next to the walls, and floor beams not less than seventh-
7 eighths of an inch thick, with the under-flooring tongued and
8 grooved, splined or laid on edge with broken joints and thoroughly

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9 spiked together and the upper flooring tongued and grooved and
10 well nailed, and between which floor are laid at least two thick-
11 ness of water proofed fabric. The dimensions herein are for
12 timbers before being dressed. Under this classification no wood
13 girders or trusses shall be used to support masonry walls.

Sec. 69. This classification includes such buildings as have
2 the inclosing walls and roof covering of incombustible materials
3 with doors, windows and frames of wood, and the interior walls
4 of brick; or fireproof material around all corridors, halls and
5 passageways; or, columns and girders made of fireproof iron and
6 steel, or with exposed wood girders containing not less than
7 eighty square inches of cross section or exposed wood posts con-
8 taining not less than sixty-four square inches of cross section;
9 or with wood trusses built of timbers containing not less than
10 sixteen square inches; and with the floor construction of wood
11 beams. Under this classification no wood girders or trusses shall
12 be used to carry masonry walls. In buildings of this class a single
13 thickness of metal lath or furring and hard incombustible plaster
14 will be deemed sufficient protection for iron and steel columns
15 and girders.

16 This classification includes such buildings as have the inclos-
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17 ing and interior partition walls constructed entirely of wood.
18 Wood frames covered with brick, stone or other veneer shall be
19 included in this class.

Standard Fire Walls and Fire Stops.

Sec. 70. Where standard fire walls are required the same shall
2 start at the foundation except for inner and recess courts begin-
3 ning at a higher level, and when used in connection with build-
4 ings of fireproof construction shall be continued up to the high-
5 est fireproof slab, and when used in connection with buildings of
6 mill, composite or frame construction, the same shall extend
7 three feet above the highest adjoining roof line and be capped with
8 stone, tile or other indestructible material. These walls shall
9 not be less than the following, viz.: Brick not less than twelve
10 inches thick, monolithic concrete not less than eight inches thick,
11 or a brick wall four inches thick combined with a monolithic con-
12 crete wall, and supported by fireproof steel with the necessary tie
13 rods or the same thickness as walls in the topmost story. When
14 necessary the above dimensions shall be increased as called for under
15 subsequent parts of the code.

Sec. 71. Where masonry or fireproof walls, or fireproof ceil-
2 ings and floors are called for under the various titles of part two,
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3 including stairway and elevator enclosures, and fire stops between
4 the different kinds of occupancy in the same building; the walls
5 shall be of brick not less than twelve inches thick or of mono-
6 lithic concrete not less than eight inches thick and the floor and
7 ceilings shall be of not less than the following, viz.: Reinforced
8 concrete four inches thick, brick arches four inches thick covered
9 with one inch of cement mortar and supported by fireproof steel
10 with the necessary tie rods, or by hollow tile arches six inches
11 thick covered with two inches of concrete, plastered on the under
12 side and supported by fireproof steel with the necessary tie rods,
12-a or metal lumber covered with re-inforced Portland cement slab,
12-b not less than two inches thick and protected on the under
12-c side by metal lath and plaster. The above walls shall
13 start from the foundation or shall be supported upon
14 fire proof steel girders and masonry piers, carried down
15 to the foundation. When necessary the thickness of the
16 above walls, floors and ceilings shall be increased as called for
17 under subsequent parts of this code. Openings placed in or
18 through the above fireproof floors or ceilings shall be covered by
19 standard fire doors.

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Party Walls and Flues.

Sec. 72. All cities of three thousand inhabitants or more having party walls must be constructed as follows: Each fifteen feet in height or less will constitute one story. The top story must be at least thirteen inches in thickness for brick walls or nine inches in thickness for concrete walls and must increase four inches for each and every story below. Said party walls to extend above all roof lines at every point at least three feet, and no wood work will be allowed to be closer than ten inches, in any party wall. All buildings hereafter erected containing smoke flues in cities of two thousand or more inhabitants or where erected within fifty feet of an existing building must have flues built according to the following specifications: No flue to have bricks set on edge or two inch way and all flues must be lined with standard terra cotta flue lining or must not be less than nine inches of solid brick laid in a full bed of mortar composed of one part cement, three parts sand and one-tenth of this mass of white lime putty. All smoke inlets to be terra cotta, all flues must start from a proper foundation, consisting of concrete with a projection of not less than four inches on any side. Where flues are cobbled out there must not be more than one inch projection for each course of

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brick and no flue will be cobbled out on any brick walls more than thirteen inches in thickness and the projection of the flue must not be in any case greater than two-thirds of the thickness of the wall.

Standard Fire Doors.

Sec. 73. Doors to passenger elevators shall be constructed and equipped the same as prescribed for standard automatic fire doors; except: the track may be placed level; no automatic attachment will be necessary, the door shall be provided with a heavy wrought iron weighted or spring latch bolted to and through the door by one-quarter inch bolts, and catch shall be made of heavy wrought iron and be bolted to or through the wall and by one-quarter inch bolts. Openings to freight elevators shall be covered by standard automatic fire doors, and where impossible to use such doors, standard automatic rolling steel doors shall be provided.

Sec. 74. Where it is impossible to install hinged, self-closing or automatic (horizontal pattern) standard fire doors, and

3 when the openings covered by such doors are not used as a means
4 of egress, automatic vertical doors may be used. Doors shall
5 overlap the sides and top of the openings four inches and slide
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6 vertically in steel tracks of a length equal to double the height
7 of the door. Tracks shall be made of three and one-half by one-
8 quarter inch Z bars and a five and one-half inch plate, the plate
9 being placed flat against the wall and the Z bar placed on top
10 of the same forming a track between the plate and the outer flange
11 of the Z bar. Track shall be bolted to and throughout the wall by
12 three-quarter inch bolts extending through the wall and be pro-
13 vided with washers four inches in diameter on the opposite side
14 of the wall. Bolts shall be placed within six inches of the top
15 and bottom of the track between these points be spaced not more
16 than two feet on centers. At the top and center of the door there
17 shall be placed a wrought iron plate, three by nine by one-quarter
18 inches for securing the cable. This shall be provided with an
19 opening near the top one inch in diameter, and plate shall be
20 bolted to and through the door by three one-half inch bolts with
21 two washers. The cord shall connect with an eye bolt placed
22 close to the bottom and at the center of the door. A cord shall
23 connect with a fusible link placed at the bottom of the door, pass
24 to the left over two pulleys placed near the ceiling and support
25 the smaller weight. Cord shall be provided with a fusible link at
26 the bottom of the door and also one near the ceiling when the
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27 door is open. The heavier weight shall be permanently connected
28 by a plated wire cable to the plate at the top of the door, pass
29 to the right over two pulleys, and be so adjusted as to prevent
30 the sudden dropping of the door, but allowing it to close when
31 the link fuses. Link shall fuse between one hundred and sixty
32 and one hundred and sixty-five degrees Fahr.

Standard Fire Proof Windows.

Sec. 75. All sash and frames shall be filled with wire glass
2 not less than one-quarter inch in thickness at the thinnest point.
3 Glass shall be reinforced with a wire mesh placed midway be-
4 tween the two surfaces of the glass. Wire shall be not less
5 than number twenty-four B. & S. gauge and be formed into a
6 mesh not larger than seven-eighths inch square.

7 (a) No metal frame containing the sash or glass shall exceed
8 five by nine feet between supports. ..

9 (b) No light of glass shall contain more than seven hundred
10 and twenty square inches nor be more than forty-eight inches long.
11 The glass shall be retained by the structural parts of the frame
12 or sash independently of the material which may be used for
13 weather proofing purposes. Only non-inflammable materials
14 shall be used in setting glass in the sash.

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15 (c) The material for the sash and frame shall be not less
16 than number twenty-four B. & S. gauge galvanized iron, and
17 of a quality soft enough to permit all necessary bending without
18 breakage. Sash and frames may be made of not less than twenty
19 ounce copper in localities subject to unusual corrosive atmosphere
20 influences and where galvanized iron will rust rapidly, provid-
21 ing the exposure is not extreme. Copper sash and frames shall
22 not be used in elevator shafts, interior partitions or where liable
23 to be subjected to intense internal fires.

24 (d) Joints shall be made with interlocking seams or riveted
25 so as to be in all particulars substantial and durable and so as to
26 afford ample fire resisting qualities. Where possible joints shall
27 be formed so that the edge will be towards the heat exposure.

28 e)(Solder may be used only for the purpose of filling the joints,
29 protecting the iron from rust and for finishing, but shall not
30 be used in fastening essential parts.

31 (f) Muntins shall be wide enough to provide for the grooves
32 or rabbets and permit of the installation of the proper glass
33 sizes.

34 (g) Wearing surfaces shall be as few as is consistent with
35 strength and fire resisting qualities and be reinforced where

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36 practicable. Sash shall afford ample weather proof qualities,
37 and flat surfaces that retain water shall be avoided.

38 (h) Lifting or sliding sash shall be properly separated by
39 parting strips in the boxes containing them, and be accessible
40 through the jambs of the frame. Sash shall be provided with
41 metal sash riveted and smooth running sash pulleys securely
42 riveted or bolted in place. The sash cord shall be of sufficient
43 strength to withstand severe heat without parting and be thor-
44 oughly protected against moisture and corrosion. Sash shall be

45 fitted into the frame with suitable stops and partings beads of met-
46 al. Sash shall be removable. The meeting rails of the sash shall
47 be so constructed as to prevent the passage of heat and flame.
48 Each opening shall be equipped with one or more iron sash locks
49 securely riveted or bolted in place at the factory.

50 (i) Sash shall be pivoted above the center on steel pivots
51 at least three-eighths inch in diameter. Pivots shall work in
52 brass eye plates securely riveted to place. Frames shall be
53 reinforced where the pivots enter, by riveting on one-eighth inch
54 iron strips so drilled as to receive the pivots. Sash shall be
55 provided with suitable stops and an effective attachment for
56 holding each open or closed. Sash shall be provided with a
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57 substantial gravity lock or latch at top and bottom, which will
58 be positive in action. Where the lower sash is stationery, or
59 where two pivoted sash are used the transom bar or meeting rails
60 dividing the upper and lower sash shall be so constructed that it
61 will not warp or bulge materially under heat, or rapid cooling.
62 Meeting rails or transom bars, shall be made so as not to be
63 easily affected by rust, and so as to afford ample weather proof
64 qualities.

65 (j) Sash pivoted vertically shall comply with all the require-
66 ments for horizontal pivoted sash. If the entire window is
67 pivoted in one sash, the same shall be so constructed as to afford
68 stiffness and in such manner as to prevent warping under heat.

69 (k) Hinged sash or casement windows shall be provided
70 with heavy hinges and a substantial brass lock securely bolted
71 or riveted to place. Sash shall be so constructed as to fit the
72 frame closely and afford ample weather proof qualities at all
73 points. Sash shall be provided with all stops and fastenings
74 necessary to prevent warping under heat.

75 (l) Double glazed sash shall be constructed essentially with
76 the requirements for single glazed sash, and be used when the
77 contents of the building are inflammable and the exposure severe.

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78 The application of the rule to be at the discretion of the chief
79 inspector of public buildings, or the building inspector or com-
80 missioner in cities having building inspection departments. The
81 air space between the two thickness of glass shall be not less than
82 one inch and be provided with suitable ventilation at the top

83 and bottom. Where two or more sash are used, one above the
84 other, the air space between the sheets of glass shall be arranged
85 to be connected when the window is closed. In case of severe
86 exposure from the outside, no inflammable material shall be
87 placed nearer any double glazed window than four feet. To avoid
88 any possibility of storing inflammable material closer to the
89 window than the above dimensions, gas pipe guard rails shall be
90 used.

91 (m) Where openings are in excess of five by nine feet, the
92 metal frame containing the sash or glass shall be reinforced at
93 every point of division by I beams thoroughly protected by fire-
94 proofing. I beams shall be securely fastened into the masonry
95 walls or be bolted to the structural frame of the building with
96 proper allowance for the expansion of the beams when heated.
97 The depth of the beam shall be not less than five inches and
98 shall be increased where the length of the beam exceeds nine feet.
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99 The metal frame shall be securely attached to the reinforced
100 members.

101 (n) All lifting, pivoted, hinged, casement or movable sash
102 shall be so arranged as to automatically close and lock under
103 fire by the fusing of a link or other means to accomplish the
104 same results. The fusible device shall be placed on the outside
105 of the window when it is open and placed in a position to receive
106 the direct heat from exposing fires. The attachments for open-
107 ing or holding the sash open shall not interfere with the action
108 of the automatic device or prevent the sash from closing. The
109 above fusible links or automatic device shall operate under a tem-
110 perature of from one hundred and sixty to one hundred and sixty-
111 five degrees Fahr.

Standard Fire Ladders and Fire Escapes.

Sec. 76. Fire ladders and fire escapes shall be located as to
2 lead directly to streets or alleys, or to grade line courts or areas
3 leading directly to public highways; and, in no case shall a fire
4 escape be placed in an inner court.

Sec. 77. Fire escapes used in connection with hospitals shall
2 be provided with landings or balconies of such dimensions as to

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3 permit of the easy handling of a cot at the various turns or land-
4 ings.

Sec. 78. All fire escapes shall be kept free from incumbrances
2 or obstructions at all times, and all courts and passageways leading
3 from fire escapes or fire ladders to public highways shall not be
4 used for storage or any other purpose whatsoever except means
5 of egress.

Sec. 79. The owner of the building shall keep all ladders and
2 escapes in good repair, free from scales, and properly painted.

Sec. 80. A number one standard fire ladder is one foot nine
2 inches wide over all, is supported from the walls of the building,
3 starts five feet three inches above the sill of the highest door or
4 window, or balcony leading thereto and runs to within seven feet
5 nine inches of the grade line. Ladders of this design may be used
6 either on frame or masonry walls.

7 (a) The frame shall be made of two by two by one-quarter
8 inch angle irons with the webs parallel and six inches away from
9 the wall of the building; and, with the flanges turned toward
10 and at right angles to the wall and placed one foot nine inches
11 on centers. This frame shall start seven feet nine inches above
12 the grade line, run to a point five feet three inches above the highest
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13 door or window sill or balcony leading thereto, and then be bent
14 or extended into the wall of the building not less than eight inches.
15 At the top of the ladder and fastened to each angle by two one-
16 half inch rivets there shall be one-half inch bolts extending through
17 and bolted to four by four inch washers placed on the inside of the
18 wall. Washer and nut shall be let into the brick work so as to give
19 a smooth surface when plastered over. Below this point the frame
20 shall be supported by and anchored to the walls of the building by
21 one-half inch bolts spaced not more than six feet on centers and
22 placed on both angles of the frame. These bolts shall be flattened
23 and be riveted to the web of the angles by half-inch rivets, and the
24 heads shall extend into the brick work not less than four inches
25 and be solidly anchored to place by lead calking. The lowermost
26 support shall not be more than eight inches above the bottom of
27 the frame or angles. The ladder shall be placed not more than
28 six inches away from any door, window or balcony leading thereto.
29 (b) The frame shall be made same as for masonry walls except
30 as follows: Wall angles to support the above frame shall be one
31 and one-half by one and one-quarter inch of proper length to cover
32 two studdings, but in no case less than two feet long. These

33 angles shall be bolted to the studding by one-half inch bolts. The

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34 heads of all bolts through the studing shall be countersunk into
35 the studding so as to give a smooth surface when plastered over.

36 (c) Rungs shall be made of three-quarter inch in diameter
37 iron bars. The lowermost rung shall be placed not more than eight
38 feet above the grade line; the uppermost rung not less than five
39 feet above the topmost door or window sill, or balcony leading to the
40 lader, and between these points the rungs shall be spaced not more
41 than one foot two inches on centers. Rungs shall be flattened
42 the ends, let into and through the web of the angles, and be
43 welded securely to place.

44 (d) Everything shall be made in a thorough and workman-
45 ship manner in accordance with the above specifications all to be
46 given two coats of the best weather paint, one before being erected
47 and one after, and the whole shall be constructed subject to the ap-
48 proval of the chief inspector of public buildings, or building in-
49 spector or commissioner in cities having building inspection de-
50 partments.

Sec. 81. An A standard fire escape is twenty-four inches wide,
2 is supported by brackets from the wall of the building and ex-
3 tends to within ten feet of the grade line, from which point a
4 counterbalanced stairway, or a stationary ladder placed against
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5 the wall of the buildings leads to the grade line. Fire escapes
6 of this design may be used on either frame or masonry walls.

7 There shall be a balcony at each floor above the ground twenty-
8 one inches wide clear of all obstructions, except at head and foot
9 of stairs where the balcony shall be forty-five inches wide for a
10 length of not less than thirty inches, the wide section of balcony
11 to be supported by two brackets; balconies shall be of sufficient
12 length to extend not less than twelve inches beyond window open-
13 ings. Balcony floor shall be constructed with three one and one-
14 half by one-fourth inch angle iron stringers resting on brackets
15 to be placed not to exceed eight feet apart; there shall be one
16 and one-fourth by one-fourth inch flat iron strips riveted to one
17 and one-half by one-fourth inch angle iron floor stringers strips
18 shall be placed not to exceed three-quarters of an inch apart which
19 will form the floor. Balconies at window levels shall not be
20 placed more than seven inches below the top of the window sills.

21 (a) There shall be a lattice work truss on all wide and nar-
22 row balconies constructed with a botom stringer of one and one-
23 half by one-fourth inch angle iron, the lattice pieces shall be one
24 and one-fourth by one-fourth inch flat iron which shall be riveted
25 to the outside stringer of landing or balcony, and lattice truss

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26 shall be dropped down twelve inches below landing or balcony to
27 make same rigid.

28 (b) The top or hand rail for each landing or balcony shall
29 be three feet high from balcony floor stringer, made of one and
30 one-fourth by three-sixteenths inch angle iron, the end next to the
31 wall shall have a one-half inch bolt securely fastened to top rail,
32 which shall pass through the wall and fasten on the inside with
33 a four-inch washer and a one-half inch nut, both to let into the
34 wall so as to form a smooth surface when plastered over. The
35 filling in between hand rail and stringer of the balcony shall
36 be made of one and one-fourth by one-fourth inch flat iron using
37 two bars between the top or hand rail and the floor stringer. The
38 top or hand rail of balcony shall be braced with a five-eighths
39 inch round iron brace rod securely riveted to the top or hand rail,
40 then passing down through the outer end of the main bracket
41 and fastened with nut both on upper and lower sides.

42 (c) The main or top cord of bracket shall be made from two
43 by one-half inch flat iron, extending out one inch beyond the
44 balcony; with a seven-eighths inch bolt, welded on the back end,
45 which shall pass through the wall and fasten on the inside with
46 a six-inch washer and a seven-eighths inch nut; washer and nut
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47 shall be let into the wall so as to form a smooth surface when
48 plastered over; main cord of bracket shall be braced with a
49 brace made from one and one-half by one-half inch flat iron into
50 the main angle brace, which is made of one and one-half by one-
51 fourth inch angle iron and shall extend to the outer side of the
52 balcony; brackets for twenty-one inch wide balcony will not re-
53 quire filling. Brackets shall be anchored through the solid wall
54 and not placed under windows or doors, and be placed not to ex-
55 ceed eight feet apart.

56 (d) The main or top cord of brackets shall be made from
57 two by one-half inch flat iron, extending out eight inches beyond
58 the balcony with a seven-eighths inch bolt welded on the back

59 ends, which will pass through the wall and fasten to a two and
60 one-half by three-eighths inch wall angle with a two-inch washer
61 and a seven-eighths inch nut; washer, nut and angle shall be let
62 into the wall so as to form a smooth surface when plastered over;
63 main cord of bracket shall be braced with a brace made from one
64 and one-half inch flat iron into the main angle brace which is
65 made of one and one-half by one-fourth inch angle iron and shall
66 extend to the outer side of the balcony; the lower part of the
67 bracket shall rest on and be bolted to a two and one-half by

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68 three-eighths inch wall angle by one-half inch bolt; brackets for
69 twenty-one inch wide balcony will not require filling. Brackets
70 shall be anchored through the solid wall and not be placed under
71 doors or windows, nor be placed to exceed eight feet on centers
72 measuring horizontally. Hand rails shall be secured to the walls
73 of frame buildings the same as to masonry walls except where
74 bolts do not strike the studding; short pieces of two by four inch
75 timbers shall be placed between the studding at the proper height
76 to secure the bolts, and nuts and washers shall be countersunk so
77 as to give a smooth surface when plastered over. Wall angles
78 shall be placed horizontally, be of such a length as to give a bear-
79 ing of not less than two inches on two studding and be bolted to
80 the studing at both ends by one-half inch bolts; the upper wall
81 angle shall be placed on the inside of the wall and the flange
82 of the angle cut off so as to fit between the studding; the lower
83 wall angle shall be placed on the outside of the wall with the
84 flange below the bolts forming a shelf to support the bracket.

85 (e) There shall be a flight of stairs from each balcony, and
86 from first balcony above the ground there shall be a flight of stairs
87 to extend to within ten feet of the ground. The stairs shall be
88 constructed with two stringers, each made with a top and bottom
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89 cord of one and one-fourth by three-sixteenths inch angle iron,
90 with a rise rail of one one-fourth by one-fourth inch flat iron
91 and a tread rail of one and one-fourth by three-sixteenths inch
92 angle iron, formed into a lattice of sufficient width to give an
93 eight inch tread and an eighth inch rise step so that the outer edge
94 of step will be the center of the lattice, the lattice work shall be riv-
95 eted at the center and the one and one-fourth by three-sixteenths
96 inch angle tread rail shall form the support for the steps. The

97 steps shall be formed of one and one-fourth by three-sixteenths
98 inch angle iron, with four angles to each tread, and the web of
99 these angles shall be cut out so as to give the flanges a solid bearing
100 on the stringers. The stairs in no case shall be less than twenty-
101 four inches wide from outside to outside of stringers, and shall be
102 placed on the outside of the balcony. The stairs shall have a
103 one inch round iron anchor rod riveted to the top of the inside
104 stair stringer about central between balconies, which shall anchor
105 in the wall to prevent vibration. The last flight of stairs from
106 the first balcony above the ground shall come down to within
107 ten feet of the ground, there to have a landing not less than two
108 feet long, which shall rest on a bracket as per above bracket speci-
109 fications, or hung on stirrups from balcony stringer above. At

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110 the lower or first balcony above the ground there shall be pro-
111 vided a counterbalanced stairway, provided with a counterbal-
112 anced extension to the stringers of proper weights to hold the
113 stai-way normally in horizontal position. The weight of the
114 counterbalance shall be equally balanced by a superimposed load
115 of one hundred and twenty-five pounds placed four feet from
116 the fulcrum. The stairway shall have hand rails on both sides
117 and be of proper length to reach ground or grade line with the
118 treads level and the risers plumb. The fulcrum or hinge shall
119 be made of one-half by twelve inch plates (two to each hinge or
120 fulcrum) which shall be riveted to the top and bottom stringers
121 of the stairway, and balcony truss by one-half inch rivets using
122 four rivets to each plate. The pivot shall be made of a bar
123 one and one-quarter inches in diameter, which shall pass through
124 both hinges and project two inches on either side of the stair
125 stringers, and the bar shall be locked to place by metal pins or
126 by upset ends. The weight shall be supported by two, one-half
127 by three inch bars riveted to the stair stringer. The weight shall
128 be cylindrical in form, of a length equal to the width of the stairs
129 and be held to place by one and one-quarter inch bar passing
130 through the weight and the two, one-half by three inch supports.
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131 Bar shall be held to place by metal pins or upset ends.

132 (f) Where it is impossible to install a counterbalanced stair-
133 way, and when the change is authorized by the chief inspector
134 of public buildings or by the building inspector or commissioner

135 in cities having building inspection departments, ladders may be
136 used in place of the counterbalanced stairways above prescribed,
137 Ladders shall be constructed according to the number one
138 standard fire ladder requirements, except that the frame shall
139 start not more than one foot six inches above the grade line and
140 the lowermost rung not more than two feet above the grade line.

141 (g) The stairs shall be provided with a hand rail on each
142 side constructed of one and one-fourth by three-sixteenths inch
143 angle iron, and each alternate one and one-fourth by one-fourth
144 inch flat iron rise rail shall run through and rivet to hand rail
145 forming the baulsters for stairs; the filling in between hand rails
146 and stairs shall be one strip of one and one-fourth by one-fourth
147 inch flat iron. The hand rails for the stairs shall be braced cen-
148 tral between the balconies with a bracket made out of one and
149 one-fourth by one-fourth inch flat iron riveted to top and bottom
150 cord of stair stringers, with a one-half inch round rod from hand
151 rail to bracket. The balusters for the stairs shall be three feet

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152 high from the nosing of the tread, and run through and fastened
153 on the bottom cord of the stair stringer.

154 (h) The entire work shall be assembled by soft iron rivets
155 except where above distinctly mentioned to be bolted together.
156 Bolts used in assembling shall be one-half inch, and all bolts
157 shall be riveted over after drawn to place. Rivets shall be used
158 at all points where two or more members lap or come in contact
159 with each other. Rivets for brackets shall be three-quarters
160 inch. Rivets for brace rods shall be one-half inch. Rivets for
161 stringers, truss and hand rails shall be three-eighths inch. Rivets
162 for stair treads and balcony floor strips shall be one-quarter inch.

163 (i) Everything shall be made in a thorough and workman-
164 like manner in accordance with the above specifications, all to be
165 given two coats of the best weather paint, one before being erected
166 and one after, and the whole shall be constructed subject to the
167 approval of the chief inspector of workshops, factories and pub-
168 lic buildings, or building inspector or commissioner in cities hav-
169 ing building inspection departments.

170 *Standard Fireproof Heater Room.*

171 Where fireproof apartments are required for the heating ap-
172 paratus, the furnace or boiler, including the breeching, fuel room
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173 and firing space shall be enclosed by brick walls not less than
174 twelve inches thick or by monolithic concrete walls not less than
175 eight inches thick; and the ceiling over the same shall be not
176 less than the following: reinforced concrete slab four inches thick,
177 brick arches four inches thick covered with one inch of cement
178 mortar and supported by fireproof steel with the necessary tie
179 rods, or by hollow tile arches six inches thick covered with two
180 inches of concrete, plastered on the under side and supported by
181 fireproof steel with the necessary tie rods. All openings into the
182 above apartments shall be covered by standard self-closing fire
183 doors.

Standard Ventilating Stoves.

Sec. 82. A standard ventilating stove may be any style or
2 design of heating stove, placed within the room to be warmed and
3 ventilated, and shall be enclosed in a jacket made of galvanized
4 or black iron. Jacket shall extend from the stove tray to a
5 point four inches above the top of the stove.

Sec. 83. Fresh air supply shall be taken from outside the
2 building, be carried to the stove below the floor line either in vetri-
3 fied sewer pipe, masonry ducts, or ducts made of wrought iron
4 or steel of not less than three-six-tenths inch in thickness, riveted

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5 together with tight joints. Ducts shall be turned up and dis-
6 charged under the centre of the stove, from which point the air
7 shall ascend between the radiating surface of the stove and jacket,
8 and enter the room from the top of the stove.

Sec. 84. Stove shall be placed on a cast iron tray raised three
2 inches above the floor line, of the same size as the enclosing jacket,
3 provided with an opening of proper size to receive the fres-air
4 duct and projecting beyond the stove door one foot in all direc-
5 tions. Stove door shall be provided with a metal collar extending
6 from the face of the stove to the face of the jacket.

Sec. 85. No smoke pipe connection between the stove and the
2 smoke flue shall be made than five feet long, measuring horizon-
3 tally.

Sec. 86. Each room in which a standard ventilating stove is
2 installed shall be provided with a ventilating flue placed close to
3 the stove. The vent flue shall be of the same area as the fresh air
4 supply and run through and above the roof. Vent flues of not
5 over one hundred and fifty square inches of area shall be en-

6 closed with walls of brick or concrete not less than four inches
 7 thick, and vent flues of a large area shall be made of brick walls
 8 not less than eight inches thick, brick walls four inches thick lines
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9 with the flue lining, or monolithic concrete walls not less than four
 10 inches thick. Openings to vent flues shall be placed at the floor
 11 line, and if vent registers are used the same shall be fifty per cent
 12 larger than the area of the flue.

Sanitation.

Traps and Cleanouts.

Sec. 111. (a) Each single fixture, except those wasting as
 2 prescribed under title number eleven, shall be separately trapped
 3-4 by a water seal trap, placed as close to the fixture as possible.

5 (b) Every trap shall be self-cleaning. No form of trap which
 6 depends upon the action of movable parts for its seal shall be
 7 used. No trap which depends upon concealed interior partitions
 8 for its seal or which has an interior partition that, in case of
 9 defect, would allow the passage of sewer air, shall be used.
 10 Every drum trap shall be so installed that the water seal will
 11 protect the trap screw from sewer air. Traps for bath tubs,
 12 basins, sinks or other similar fixtures shall be made of lead, brass
 13 or of iron enameled inside.

14 (c) Every trap shall have a water seal of not less than two
 15 inches.

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Sec. 121. All free standing stacks shall be thoroughly sup-
 2 ported on concrete masonry piers at their base, and those forty
 3 feet or more in height shall also be provided with foot rests at
 4 their base and also with floor rests, or supports at every ten feet
 5 intervals. (a) The pipe supports according to their location
 6 shall be made either with heavy iron posts, hangers, wall brackets
 7 or steel fittings, concrete or masonry piers, *provided* that no
 8 brick pier shall be less than eight inches square. The use of pipe
 9 hooks shall be prohibited for larger than one and one-half inch
 10 pipes.

Sec. 124. When a sewer is not available, drain pipes from
 2 buildings may be connected with cesspools or receiving vaults as
 3 prescribed in title sixteen of this code, *provided, however*, that
 4 no water closet shall be connected to a leaching cesspool. (a)
 5 Under the various titles of part two, where a sewerage system

6 is mentioned, the same is meant to include a public sewerage
7 system or a private sewerage system connected with a cesspool or
8 receiving vault.

Soil, Waste and Vent Pipes.

Sec. 142. All main and branch soil, waste, vent and back
2 pipe shall be of iron, lead, brass or copper.

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Sec. 143. The main waste pipe stack carrying a kitchen sink
2 or more than three other fixtures shall not be less than two inches
3 in diameter.

Sec. 144. All soil and waste pipes receiving the discharge of
2 any fixtures shall be extended the full calibre at least two feet
3 above the roof and at least five feet when such roof is used for
4 other purposes than weather covering for building. In no case
5 shall a vent pipe through the roof be less than four inches.
6 Change in diameter shall be made by long increaser, at least
7 one foot below roof.

Sec. 145. The joints at the roof shall be made water tight by
2 the use of proper sheet copper or lead plate, with a sleeve not
3 less than six inches long made to fit the pipe tightly. Plate
4 shall be not less than one foot six inches square.

Sec. 146. The roof terminals of all vent pipes, shall be at
2 least three feet above any door, window, scuttle or air shaft when
3 located at distance less than twelve feet from such terminal.

Sec. 147. No soil, waste or vent pipe extension of any new or
2 existing buildings shall be run or placed on the outside of a wall,
3 but shall be carried up in the inside to the roof. (a) In the
4 event that a new building is built higher than an existing build-

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5 ing, the owner of the new building shall not locate windows
6 within twelve feet of any existing vent stack on the lower build-
7 ing, unless the owner of such new building shall defray the ex-
8 penses of, or shall himself make such alteration to conform with
9 section five of this title. (b) It shall be the duty of the owner of
10 the lower or existing building to make such alteration therein upon
11 the receipt in advance of money, or security thereof, sufficient for
12 the purpose from the owner of the new or higher building, or
13 to permit at the election of the owner of the new or higher build-
14 ing the making of such alteration by the owner of said new or
15 higher building.

Sec. 148. In no case shall any fixture connection except water closet or similar fixtures be made to a lead bend. No vent pipe shall be used as a waste or soil pipe.

Sec. 149. Any vertical branch rising more than ten feet or any lateral branch running more than twenty-five feet from the main soil line, shall be continued full size to a point above the roof in the same manner as required for main soil pipes, or may be returned to main vent pipe full size.

Sec. 150. The back vent of any fixture trap shall be as close to the traps as practicable consistent with its location and effective-
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ness. The developed length of the waste pipe of any fixture from its trap to the vent pipe shall not exceed twenty-four inches.

Sec. 151. Every building in which water closets are installed shall have at least one four-inch soil pipe stack, extending through the roof. All main vents shall be connected at their base to the main waste or soil pipe or below the lowest branch of fixtures fitting, and shall be extended through and above the roof.

Sec. 152. All branch vent and back vent pipes shall be free from drops or sags and be so graded and connected as to drip back to the soil or waste pipe by gravity. On horizontal runs such connections shall be taken off above the center line as near the crown as possible and rise at least six inches above such crown before being offset horizontally.

Sec. 153. Where bath rooms, water closets or other fixtures are located on opposite sides of a wall or partition, or are directly adjacent to each other in an inseparable dwelling, such fixtures may have a common soil or waste pipe and vent pipe stack.

Sec. 154. Every fixture trap shall be protected from siphonage and air circulation assured by means of a vent or back-vent pipe.

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Sec. 155. Every earthenware fixture with trap combined shall be provided with a back vent horn. Every water closet, pedestal urinal and slop sink having a floor connection, shall be back vented from the soil or waste branch and preferably on the top of the branch. When connected with the vertical arm of a band it shall be made above the top of the horizontal branch.

Toilet Rooms.

Sec. 181. All floors to toilet rooms, lavatories, water closet com-

2 partments, or any other enclosure where plumbing fixtures are
 3 used within the building, shall have a water-proof floor and base
 4 made of non-absorbent indestructible water-proof material, namely,
 5 asphalt, glass, marble, Portland cement, vitrified or glazed tile
 6 or terrazzo or monolithic composition. The base shall not be
 7 less than six inches high and shall have a sanitary cover at the
 8 floor level, with the following exceptions: In apartments, tene-
 9 ments and dwellings, the above prescribed floor and base will not
 10 be required, but water closets shall be set on a marble slab or tile
 11 or other non-absorbent, incombustible of indestructible material
 12 not less than seven-eighths inches thick, extending at least one
 13 foot in front of such closet and not less than thirty inches in
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14 width. No water closet shall be set directly on top of a wood
 15 floor.

Sec. 182. Where toilet rooms for males and females are ad-
 2 justed as to prevent the waste of water. The water from flushing
 3 titions extending to the ceiling and the entrance shall be screened
 4 and the traveling distance between them shall be not less than
 5 twenty feet.

Sec. 183. All interior doors and partitions shall be raised at
 2 least six inches above the floor. All urinals, urinal troughs or gut-
 3 ters shall be divided into stalls not less than eighteen inches
 4 wide by partitions not less than four feet six inches high meas-
 5 uring from floor line and nine inches wide, raised not less than
 6 one foot above the floor. No room containing water closets or
 7 urinals shall be less than seven feet high.

Cess Pools.

Sec. 206. Tight or leaching cess pools may be used to receive
 2 the discharge from water closets and sinks only when written per-
 3 mission to that effect has been secured from the local board of
 4 health of the city in which the same is constructed, if in a city; and
 5 if not, then by the West Virginia state board of health, such per-

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6 mission can be given only when a public sewerage system is not
 7 available.

Sec. 207. No cess pools for sewage shall be constructed where a
 2 sewer is available nor shall any connection from such cesspool be
 3 made with any sewer. Cess pools now existing in premises acces-
 4 sible to a sewer, and cess pools that may hereafter become acces-

5 sible to a sewer must be discontinued, emptied of their contents,
6 cleaned out and be filled with earth or ashes and the house sewer
7 shall be disconnected from the old cess pool and re-connected
8 with the public sewer.

Sec. 208. Where a public sewer is not available, and written
9 authority has been secured from the proper board of health as
3 shown in section one to construct such cess pool and there is suffi-
4 cient grounds for the purpose, a water tight cess pool may be used
5 to receive the discharge of house sewage, which may be overflowed
6 to a leaching cess pool, providing there is no danger of contami-
7 nating a water supply, well or spring and the soil is of an absorb-
8 ent character. Otherwise a tight cess pool shall only receive the
9 discharge from water closets and sinks and the waste from all
10 other fixtures shall discharge to a surface water course.

Sec. 209. A water tight cess pool for drainage shall not be less
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2 than six feet in diameter by ten feet in clear, or its equivalent
3 oval, built of cast iron; hard brick, eight inches thick laid in
4 Portland cement mortar and plastered on the inside with a one
5 inch coat of Portland cement (mortar) or Portland cement con-
6 crete eight inches thick, and made water tight.

Sec. 210. A leaching cess pool shall not be less than the di-
2 mensions of the water tight cess pool, lined with dry brick or stone,
3 without mortar.

Sec. 211. Tight and leaching cess pools, shall be provided with
2 a twenty inch cast iron ring and cover.

Sec. 212. No tight cess pools shall be placed within two feet
2 of any lot or twenty feet of any building or cistern or thirty
3 feet from any well, spring or other source of water supply used
4 for drinking or culinary purposes and shall be maintained tight.
5 No leaching cess pool shall be placed within one hundred feet of
6 any dwelling or water tight cistern or within three hundred feet of
7 the source of any water supply.

Sec. 213. Tight cess pools shall be vented with four inch cast
2 iron vent pipe extending not less than ten feet above the ground
3 and not less than twenty feet from any window, door or other
4 opening in buildings used for human habitation.

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Sec. 214. The outlet from the tight cess pool shall be through
2 a lead invert the same size as the house sewer and the piping be-

3 tween the tight and leaching cess pool may be either of earthen-
4 ware or cast iron.

Septic Tanks.

Sec. 215. Septic tanks and filtration beds can be constructed
2 only after the site has been inspected and the plan and specifica-
3 tions for the construction of the same approved by the West Vir-
4 ginia state board of health and no such tank or bed can be used
5 to receive human or animal excreta until after the construction
6 and equipment of the same has been approved by the state board
7 of health.

Vaults.

Sec. 216. Privy vaults may be constructed only on premises
2 where water and sewers are not accessible.

Sec. 217. Privy vaults shall not be constructed where a sew-
2 erage system is available nor on any lot where in cleaning, the
3 night soil would have to be carried through any building or human
4 habitation, nor shall any old vault be connected to a sewer.

Sec. 218. No vault, manure pit, open trap cess pool, septic
2 tank or other reservoir which is used as a privy or receptacle
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3 for human or animal excreta shall be located within twenty feet
4 of any street line or any building of human habitation or occu-
5 pancy or within fifty feet of any cistern, well, spring or other
6 source of water supply used for drinking or culinary purposes,
7 whether they are located on the same or an adjoining lot, or prem-
8 ises. With the exception that no privy vault shall be located
9 within fifty feet of any school building.

Sec. 219. All vaults, pits or other open top reservoirs de-
2 scribed in section three shall be made of either brick or con-
3 crete. The walls of such vaults if made of brick, shall be of
4 hard burned sewer brick not less than eight inches thick, laid in
5 Portland cement mortar and the walls plastered outside and in-
6 side with a half-inch coat of Portland cement mortar, in propor-
7 tion of one part of Portland cement and two parts of clean, sharp
8 sand. After this coating is put on it shall be given one coat
9 wash of liquid Portland cement. The bottom shall be at least
10 three brick course laid in cement mortar, or of Portland cement
11 concrete eight inches thick.

12 When Portland cement concrete is used to construct vaults,
13 the walls shall be at least six inches thick, laid to a form, and the

14 concrete shall be made of one part of live Portland cement, three
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15 parts of clean, sharp sand, five parts crushed stone, free from
16 dust and of sizes between one-quarter and one and one-half inches
17 in largest diameter and shall be plastered and grouted inside and
18 out as prescribed above for brick construction. Vaults shall be
19 made tight and their walls continued twelve inches above the
20 ground surface to prevent surface drainage. No retempered ce-
21 ment shall be used. If the vault is used in connection with an
22 outhouse the vault shall be of such a shape and size as not to ex-
23 tend any portion of the floor of the said outhouse but only under
24 the space occupied by the seats. Any portion of the vault extending
25 beyond the walls of the outhouse shall be covered by a four inch
26 brick arch, four inch stone flagging, reinforced concrete slab or
27 cast iron.

Sec. 220. Over each privy vault, which shall receive nothing
2 but human excreta, there shall be placed an outhouse constructed
3 as prescribed in title twelve, section three.

4 The seats shall be provided with tight fitting covers, and the
5 space underneath shall be ventilated by a vent pipe or box extend-
6 ing upward through and three feet above the roof. Such vent pipe
7 shall at least be six inches square for every square yard or part
8 thereof of vault surface.

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Sec. 221. Vaults shall be provided with a clean-out extension
2 of not less than two by one and one-half feet in size connecting
3 directly with the vault. Cleanout shall be provided with a trap
4 door the full size of the cleanout. Cleanout extension shall ex-
5 tend at least one foot above the grade line.

Sec. 222. Floors of outhouses shall be made as tight as possi-
2 ble.

Sec. 223. Where outhouses are provided for the different sexes,
2 if located within forty feet of each other, the walks or approaches
3 thereto shall be separated by a tight fence, at least six feet high,
4 but in no case shall such outhouses be located within ten feet
5 of each other.

House Bill No. 502

(BY MR. SANDERS.)

[Introduced January 26, 1931; referred to the Committee on Immigration and Agriculture.]

House Bill No. 502

A BILL to regulate the ownership of dogs in the state.

Be it enacted by the Legislature of West Virginia:

Section 1. This act shall be known as the dog law of West Virginia.

Sec. 2. For the purpose of this act the following terms shall have the following meanings respectively designated for each:

The term "livestock" shall include horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids and swine.

The term "poultry" shall include all domestic fowls.

The word "person" shall include state and local officers or employees individuals, corporations, co-partnerships, and associations. Singular words shall include the plural. Masculine words shall include the feminine and neuter.

The word "owner", when applied to the proprietorship of a dog, shall include every person having a right of property in such dog, and every person who keeps or harbors such dog or has it in his care, and every person who permits such dog to remain on or about any premises owned or occupied by him.

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Sec. 3. The term "kennel" shall mean any establishment where in or whereon dogs are kept for the purpose of breeding, sale or sporting purposes.

The term "police officer" shall mean any person employed or elected by this state, or by any municipality, county, or district, and whose duty it is to preserve peace or to make arrests or to enforce the law. The term includes game, fish and forest wardens.

Sec. 4. On or before the fifteenth day of May, one thousand nine hundred and twenty-one, and on or before the fifteen day of January of each year thereafter, the owner of any dog six months old or over shall apply to the county clerk, either personally or in

5 writing, for a license for each such dog owned or kept by him.
6 Such application shall state the breed, sex, age, color, and markings
7 of such dog, and the name and address of the last previous owner;
8 and shall be accompanied by a fee of two dollars for each male
9 dog and each spayed female dog; and by a fee of four dollars for
10 each unspayed female dog.

Sec. 5. Such license shall be issued on a form prepared and
2 supplied by the county commissioner. Such license shall be dated
3 and numbered, and shall bear the name of the county issuing it
4 and a description of the dog licensed. All licenses shall be void
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5 upon the fifteenth day of January of the following year. The
6 county commissioners shall also furnish, and the county clerk shall
7 issue, with each license, a metal tag. Such tag shall be affixed
8 to a substantial collar. The collar shall be furnished by the owner,
9 and with the tag attached shall at all times be kept on the dog
10 for which the license is issued, except when confined in a kennel.

Sec. 6. The county commissioners shall prepare and furnish
2 annually to the county clerk, metal tags to be furnished by the
3 county clerk to the owners of dogs when such owners shall pay
4 the license fee for said dogs. Such tags shall be of metal, and
5 shall bear the name of the county issuing it, and a serial number
6 corresponding with the number on the license issued to said owner,
7 as provided in this act. Such tags shall also have impressed
8 thereon the calendar year for which such tag is issued, and shall
9 not be more than one inch in length, and shall be equipped with
10 a substantial metal fastening device. The general shape of said
11 tag shall be changed from year to year.

12 If any such tag is lost it shall be replaced without cost by the
13 county clerk, upon application by the person to whom the original
14 license was issued, and upon production of such license.

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Sec. 7. Any justice of the peace within the county who having
2 received and receipted for necessary blanks and tags, may issue
3 such dog license and tags in like manner as prescribed for the is-
4 suance of licenses by the county clerk. When a license is issued
5 by a justice of the peace the person applying for the license shall
6 pay fifteen cents to the said justice, in addition to the other fees
7 prescribed as the cost of said license. Said fifteen cents shall
8 be retained by the justice of the peace and as his fee for the is-

9 suance of said license and reporting the same and remitting pay-
10 ment therefor to the county sheriff. Such report and remittance
11 shall be made by the justice of the peace within twenty-four
12 hours after the issuance of any license by him; whereupon the
13 county sheriff shall make a record of, and otherwise treat, said
14 license as though it had been issued from his office, except that he
15 shall also note upon his record the name of the justice issuing the
16 license.

17 Every justice of the peace shall deliver the book or books from
18 which he has issued licenses, together with the stubs therein prop-
19 erly filled out and showing the name of each licensee and the
20 number of the license issued to him, to the county clerk before
21 the fifteenth day of January of each year.

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Sec. 8. Any person becoming the owner, after the fifteenth
2 day of January of any year, of any dog six months old or over
3 which has not already been licensed, or any person owning or
4 keeping a dog which becomes six months old at any time after the
5 fifteenth day of January of any year, shall forthwith apply for and
6 secure a license for such dog in the same manner as the annual
7 license is obtained under the provisions of this act. If any such
8 application is made at any time after the fifteenth day of July of
9 any year the license fee shall be one-half of the amount of the
10 annual license.

Sec. 9. No license or license tag issued for one dog shall be
2 transferable to another dog, except as provided in sections eleven
3 and twelve of this act. Whenever the ownership or possession of
4 any dog is permanently transferred from one person to another
5 within the same county, the license of such dog may be likewise
6 transferred, upon notice given to the county clerk. This act does
7 not require the procurement of a new license, or the transfer of a
8 license already secured, when the possession of a dog is temporarily
9 transferred for the purpose of hunting game, or for breeding, trial,
10 or show, in the state.

Sec. 10. Whenever any dog licensed in one county is perman-
2 ently removed to another county, the county clerk of the county

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3 where the license was issued shall, upon the application of the
4 owner or keeper of such dog, certify such license to the clerk of the
5 county to which the dog is removed. Such clerk shall thereupon

6 and upon the payment of a fee of twenty-five cents, issue a license
7 and tag for such dog in the county to which it is removed.

8 This section does not apply to dogs used during the hunting
9 season for hunting game, or temporarily for breeding, trial, or
10 show in the state; nor for the transportation of dogs for hunting,
11 breed, trial or show purposes, the home county license holding
12 good for such purposes throughout the state.

Sec. 11. Any person who keeps or operates a kennel may, in-
2 stead of the license for each dog required by this act, apply to the
3 county clerk for a kennel license entitling him to operate such
4 kennel. Such license shall be issued by the county clerk on a form
5 prepared and supplied by the county commissioners, and shall en-
6 title the licensee to keep any number of dogs six months old or
7 over, not at any time exceeding a certain number to be specified
8 in the license. The fee to be paid for each kennel license shall be
9 two dollars for each male dog and four dollars for each female dog
10 permitted to be kept under the kennel licenses. With each ken-
11 nel license the county clerk shall issue a number of metal tags
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12 equal to the number of dogs authorized to be kept in the kennel.

Sec. 12. The licensee of a kennel shall, at all times keep one
2 tag attached to a collar on each dog six months old or over kept by
3 him under the kennel license. Such tags may be transferred
4 from one dog to another within the kennel whenever any dog is
5 removed from the kennel.

Sec. 13. Any person may bring or cause to be brought into the
2 state, for a period of thirty days, one or more dogs for show, trial,
3 or breeding purposes.

Sec. 14. The county clerk shall keep a record of all dog licenses,
2 and all kennel licenses issued during the year. Such record shall
3 contain the name and address of the person to whom each license
4 is issued. In the case of an individual license, the record shall
5 also state the breed, sex, age, color, and markings of the dog
6 licensed; and in the case of a kennel license, it shall state the place
7 where the business is conducted. The record shall be a public
8 record and open to persons interested, during business hours.

9 Whenever the ownership or possession of any dog licensed under
10 the provisions of this act is transferred from one person to another,
11 except the temporary transfer of dogs for hunting purposes, or
12 for breeding, trial, or show, as provided in section nine of this

13 act, such transfer shall be noted on the record of the county clerk.

Sec. 15. An accurate record of all license fees collected by the
2 county clerk, or paid over to him by any justice of the peace, shall
3 be kept as a matter of information; but all such funds shall be
4 turned into the county funds. All moneys at the time of passage
5 of this act in the "dog fund" derived from taxation of dogs under
6 the existing law, shall be turned into the county fund. All bills
7 incurred under this act, or due at the time of the passage of this
8 act, shall be paid out of the county fund, and any excess moneys
9 collected under this act shall be used for other county purposes.

Sec. 16. The assessors for taxation purposes in each magisterial
2 district and city of this state shall annually, at the time of as-
3 sessing property as required by law, make diligent inquiry as to
4 the number of dogs owned, harbored, or kept by any person so as-
5 sessed.

6 The assessor shall annually, on or before the thirty-first day of
7 August, make a complete report, on a blank form furnished by
8 the county commissioners, to such commissioners, setting forth
9 the name of every owner of any dog, or dogs, the name of the
10 owner of the premises on which such dog or dogs are kept, how
11 many of each sex are by him owned or harbored, and if a kennel
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12 is maintained by any person such fact shall also be stated. It shall
13 be the duty of the assessor, at the time of making the assessment,
14 to notify the owner of such dog or dogs and the owner of the
15 premises on which said dog or dogs are kept that the owner of the
16 dog must obtain a license for the same as provided for in this
17 act; but the neglect or failure so to notify such owner of both
18 dog and premises shall not relieve the owners from their duty
19 to obtain such license.

Sec. 17. On and after the fifteenth day of May, one thousand
2 nine hundred and twenty-one, it shall be unlawful for any person
3 to own or keep any dog six months old or over unless such dog is
4 licensed by the clerk of the county in which the dog is kept; and
5 unless such dog at all times wears the collar and tag provided for
6 by this act.

Sec. 18. It shall be unlawful for any unnaturalized foreign
2 born resident of this state to own or keep a dog of any kind in
3 this state.

Sec. 19. It shall be the duty of every police officer to seize and
2 detain any dog or dogs which bear a proper license tag, and which
3 are found running at large and unaccompanied by its owner or
4 keeper. It shall be the duty of every police officer to kill any

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5 dog which does not bear a proper license tag, which is found run-
6 ning at large. The chief of police or his agents, of any city and
7 the constable of any incorporated town or magisterial district,
8 shall cause any dog bearing a proper license tag and so seized and
9 detained to be properly kept and fed, and shall cause immediate
10 notice, either personal or by registered mail, to be given to the per-
11 son in whose name the license was procured, or his agent, to claim
12 such dog within ten days. The owner of a dog so detained shall
13 pay all reasonable expenses incurred by reason of its detention,
14 under the provisions of this section, before the dog is returned.

Sec. 20. If, after ten days from the giving of such notice, such
2 dog has not been claimed, such chief of police or his agent or
3 constable shall dispose of such dog by sale, or by destruction
4 in some humane manner. All moneys derived from the sale of
5 such dog, after deducting the expense of its detention, shall be paid
6 to the county clerk and by him placed in the county fund. For
7 services under sections eighteen and nineteen of this act such offi-
8 cers shall be paid the sum of two dollars for detaining a licensed
9 dog; and the sum of three dollars for the killing of a dog. All
10 expenses incurred under this act or the preceding section, and not
11 otherwise provided for, shall be paid by the proper county.

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Sec. 21. For failure to perform his duty under the provisions
2 of this act, such police officer shall be liable to a penalty of five
3 dollars for each offense, which amount shall be deducted from any
4 amount due such police officer from the county, at any settlement
5 between such officer and the county commissioners.

Sec. 22. Any person may kill any dog which he sees in the
2 act of pursuing, worrying, or wounding any livestock, or attacking
3 human beings, whether or not such dog bears the license tag re-
4 quired by the provisions of this act. There shall be no liability
5 on such person in damages or otherwise for such killing.

6 Any unlicensed dog that enters any field shall constitute a pri-
7 vate nuisance, and the owner or tenant of such field, or their agent
8 or servant, may kill such dog while it is in the field, without lia-

9 bility or responsibility of any nature for such killing.
10 Licensed dogs when accompanied by their owner or handler
11 shall not be included under the provisions of this section, unless
12 caught in the act of worrying, wounding, or killing any livestock,
13 or attacking human beings.

Sec. 23. All dogs are hereby declared to be personal property
2 and subjects of larceny. Except as provided in section twenty-
3 two of this act, it is unlawful for any person, except a police officer,
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4 to kill, injure, or poison, or to attempt to kill, injure, or poison,
5 any dog which bears a license tag for the current year.

6 It shall be unlawful for any person, except the owner or au-
7 thorized agent to remove any license tag from a dog collar or to
8 remove any collar with a license tag attached thereto, from any dog.

9 It shall be unlawful for any person to harbor, or permit to re-
10 main about his premises, any dog not having a license.

Sec. 24. It is unlawful for the owner or keeper of any female
2 dog to permit such female dog to go beyond the premises of such
3 owner or keeper at any time she is in heat, unless such female dog
4 is held properly in leash.

Sec. 25. The owner or keeper of every dog shall at all times,
2 between sunset and sunrise of each day, keep such dog,—either
3 (a) confined within an enclosure from which it cannot escape, or
4 (b) firmly secured by means of a collar and chain or other device
5 so that it cannot stray beyond the premises on which it is secured,
6 or (c) under the reasonable control of some person, or when en-
7 gaged in lawful hunting accompanied by an owner or helper.

Sec. 26. Whenever any person sustains any loss or damage to
2 any livestock or poultry by dogs, or any livestock of any person is
3 necessarily destroyed because of having been bitten by a dog, such
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4 person, or his agent or attorney, may complain to any justice of the
5 peace, magistrate, or police judge. Such complaint shall be in
6 writing, shall be signed by the person making such complaint, and
7 shall state when, where, and how such damage was done, and by
8 whose dog or dogs, if known. Such justice of the peace, magis-
9 trate, or police judge shall at once examine the place where the
10 alleged loss or damage was sustained and the livestock or poultry
11 injured or killed, if practicable. He shall also examine, under
12 oath or affirmation, any witness called before him. After making

13 diligent inquiry in relation to such claim, such justice, magistrate,
14 or police judge shall determine whether any damage has been
15 sustained and the amount thereof, and, if possible, who was the
16 owner of the dog or dogs or freeholder where dogs usually kept
17 or harbored by which such damage was done.

18 Any owner, freeholder where dogs are allowed to be kept, or
19 keeper of such dogs shall be liable to the owner of such livestock
20 or poultry in a civil action for all damages and costs, or to the
21 county to the extent of the amount of damages paid by such
22 county as hereinafter provided.

Sec. 27. Upon making the examination required in section
2 twenty-five of this act, the justice, magistrate, or police judge

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3 shall immediately make a certificate thereto, signed and sealed
4 by him, that such appraisalment was regularly and duly made. If,
5 by such examination, it appears that any damage has been sus-
6 tained by the complainant, the justice, magistrate, or police judge
7 shall deliver the report of such examination, and all papers re-
8 lating to the case, to the claimant, or his agent or attorney, upon
9 payment of the costs up to that time. Such report shall be de-
10 livered to the county commissioners to be filed in their office.

Sec. 28. Any justice of the peace, magistrate, or police judge,
2 for the special service required under sections twenty-six and
3 twenty-seven of this act, shall receive three dollars for each case,
4 and ten cents per mile for each mile traveled, to be paid by the
5 claimant in each case. In all cases where damages are awarded,
6 the fees paid by claimants shall be included in the amount of such
7 damages.

Sec. 29. Upon the commissioners of the county receiving such
2 report, if it appears thereby that a certain amount of damage
3 has been sustained by the claimant, they shall immediately draw
4 their order on the sheriff of the county in favor of the claimant
5 for the amount of loss or damage such claimant has sustained ac-
6 cording to such report, together with necessary and proper costs
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7 incurred. Such amount shall be paid by the proper county.
8 No person shall receive any order for any claim until the justice
9 of the peace, magistrate, or police judge, before whom the claim
10 was made has certified that due diligence was made to ascertain
11 whose dog or dogs did the damage, and that the carcasses of the

12 livestock or poultry killed, and for which damages have been as-
13 sessed, were buried within twenty-four hours after the assessment
14 of damages.

Sec. 30. No payment shall be made for any item which has
2 already been paid by the owner of the dog or dogs doing the injury.
3 The fact that no such payment has been made shall be certified
4 by the justice of the peace, magistrate, or police judge.

5 When any payment is made by the county for any livestock bit-
6 ten by a dog, killed or injured, such payment shall not exceed
7 the actual loss sustained.

Sec. 31. Any valid claims or parts thereof for loss or damage
2 to sheep, horses, mules, cattle, or swine, which have accrued under
3 any general or local laws at any time prior to the passage of this
4 act, shall not abate by reason of the repeal of such general or local
5 act, but shall be paid out of the general fund of the proper county.

6 All claims or parts thereof remaining unpaid for any reason
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7 at the close of any year shall not abate, but shall continue as
8 claims until paid in full.

Sec. 32. If, in the report of the justice of the peace, magistrate,
2 or police judge, the name of the owner of any dog or dogs having
3 caused loss or damage to any livestock is definitely and con-
4 clusively shown, the justice of the peace, magistrate, or police
5 judge shall notify such owner, keeper and freeholder on whose
6 premises the dog is kept, immediately to kill said dog or dogs; and
7 if said dog or dogs be killed in accordance with such notice, the
8 owner or keeper of said dog shall be exempt from all further lia-
9 bility.

10 Upon failure, however, of such owner or freeholder to comply
11 with such notice within a period of ten days, he or they shall be
12 liable for the damages caused by said dog or dogs; and the justice
13 of the peace or police judge, or their agents, of the district or
14 city in which said dog or dogs are kept, shall upon notice from the
15 county clerk kill such dog or dogs wherever found. For such ser-
16 vice he shall be entitled to two dollars for each dog so killed, to
17 be paid by the proper county, upon a certified statement to the
18 commissioners that such dog or dogs have been killed by him. The
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19 county commissioners shall issue an order on the county sheriff for
20 such amount.

Sec. 33. It is unlawful for any person knowingly to make any
2 false statement or to conceal any fact required to be disclosed
3 under any of the provisions of this act.

Sec. 34. In any proceedings under this act the burden of proof
2 of the fact that a dog has been licensed, or has been imported
3 for breeding, trial, or show purposes, or that a dog is under the
4 age of six months, shall be on the owner of such dog.

5 Any dog not bearing a license tag shall be deemed to be un-
6 licensed.

Sec. 35. The commissioner of agriculture, through his officers
2 and agents, shall have the general supervision over the licensing
3 and regulation of dogs and protection of livestock and poultry
4 from damage by dogs in all counties of the state. The commis-
5 sioners of each county shall enforce within their respective juris-
6 diction, the provisions of this act. Upon the petition of ten free-
7 holders of any county in which the provisions of this act have not
8 been enforced by the county officers, it shall be the duty of the
9 commissioner of agriculture to employ such officers as may be
10 necessary in carrying out the provisions of this act. Any other

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11 state department bureau or commission may, on request of the
12 commissioner of agriculture, assist in the enforcement of the pro-
13 visions of this act.

Sec. 36. Any person violating, or failing or refusing to comply
2 with any of the provisions of this act shall be guilty of a misde-
3 meanor and upon conviction shall be fined not less than twenty-
4 five dollars, nor more than one hundred dollars, or be imprisoned
5 in the county jail not less than thirty days nor more than ninety
6 days, or both, at the discretion of the court.

7 All fines collected under the provisions of this act shall be forth-
8 with paid to the sheriff of the proper county.

Sec. 37. Nothing in this act shall interfere with any law for
2 the protection and preservation of game. Except where such acts
3 or parts of acts are especially repealed, this act does not repeal
4 or affect any acts or parts of acts relating to mad dogs or dogs
5 affected with any disease.

Sec. 38. Nothing in this act shall be construed to prevent the
2 owner of a licensed dog from recovery, by action at law, the value
3 of any dog, which dog has been illegally killed, by any police
4 officer, farmer, stockmen, or other person within this state, from

5 said police officer, farmer, stockmen, or other person. Said value
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6 of said dog to be ascertained in the same manner and form as
7 provided in section twenty-five of this act for assessing the damage
8 done to livestock by dogs.

9 Nothing in this act shall be construed as to prevent the killing
10 of a dog caught chasing deer at any time of the year, on either
11 public or private lands; or to prevent the killing of dogs by any
12 officer employed to enforce the game laws of this state when
13 said dogs are pursuing game during the closed season for the
14 training of dogs on game, providing said dogs are not under the
15 immediate control or accompanied by their owners or keepers.

Sec. 39. This act does not repeal or in anywise affect any of
2 the provisions of the Game Laws for West Virginia.

Sec. 40. All other acts or parts of acts, general, local or special,
2 inconsistent with this act are hereby repealed.

House Bill No. 518

(By MR. HEAVENER)

[Introduced January 26, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 518

A BILL creating the court of industrial relations, defining its powers and duties, and relating thereto, abolishing the public utilities commission, repealing all acts and parts of acts in conflict therewith, and providing penalties for the violation of this act.
Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created a tribunal to be known
2 as the court of industrial relations, which shall be composed
3 of three judges who shall be appointed by the governor, by and
4 with the advice and consent of the senate. Of such three judges

5 first appointed, one shall be appointed for a term of one year.
6 one for a term of two years, and one for a term of three years.
7 said terms to begin simultaneously upon qualification of the
8 persons appointed therefor. Upon the expiration of the term of
9 the three judges first appointed as aforesaid, each succeeding judge
10 shall be appointed and shall hold his office for a term of three years
11 and until his successor shall have been qualified. In case of a
12 vacancy in the office of judge of said court of industrial relations
13 the governor shall appoint his successor to fill the vacancy for the
14 unexpired term. The salary of each of said judges shall be five

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15 thousand dollars per year, payable monthly. Of the judges first
16 to be appointed, the one appointed for the three-year term shall
17 be the presiding judge, and thereafter the judge whose term of
18 service has been the longest shall be the presiding judge; *provided*,
19 that in case two or more of said judges shall have served the same
20 length of time, the presiding judge shall be designated by the
21 governor.

Sec. 2. The jurisdiction conferred by law upon the public
2 utilities commission of the state of West Virginia is hereby con-
3 ferred upon the court of industrial relations, and the said court
4 of industrial relations is hereby given full power, authority and
5 jurisdiction to supervise and control all public utilities and all
6 common carriers as defined in the general statutes of West Vir-
7 ginia, doing business in the state of West Virginia, and is em-
8 powered to do all things necessary and convenient for the exer-
9 cise of such power, authority and jurisdiction. All laws relating to
10 the powers, authority, jurisdiction and duties of the public
11 utilities commission of this state are hereby adopted and all
12 powers, authority, jurisdiction and duties by said laws imposed
13 and conferred upon the public utilities commission of this state
14 relating to common carriers and public utilities are hereby im-
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15 posed and conferred upon the court of industrial relations created
16 under the provisions of this act; and in addition thereto said
17 court of industrial relations shall have such further power, au-
18 thority and jurisdiction and shall perform such further duties
19 as are in this act set forth, and said public utilities commission
20 is hereby abolished. That all pending actions brought by or
21 against the said public utilities commission of this state shall

22 not be affected, but the same may be prosecuted or defended by
23 and in the name of the court of industrial relations. Any in-
24 vestigation, examination, or proceedings had or undertaken, com-
25 menced or instituted by or pending before said public utilities
26 commission at the time of the taking effect of this act are trans-
27 ferred to and shall be continued and heard by the said court of
28 industrial relations hereby created, under the same terms and
29 conditions and with like effect as though said public utilities com-
30 mission had not been abolished.

Sec. 3. (a) The operation of the following named and in-
2 dicated employments, industries, public utilities and common
3 carriers is hereby determined and declared to be affected with
4 a public interest and therefore subject to supervision by the state
5 as herein provided for the purpose of preserving the public peace,
6 protecting the public health, preventing industrial strife, disorder
7 and waste, and securing regular and orderly conduct of the busi-
8 nesses directly affecting the living conditions of the people of this
9 state and in the promotion of the general welfare, to-wit: (1)
10 The manufacture or preparation of food products whereby, in
11 any stage of the process, substances are being converted, either
12 partially or wholly, from their natural state to a condition to be
13 used as food for human beings; (2) The manufacture of clothing
14 and all manner of wearing apparel in common use by the people
15 of this state whereby, in any stage of the process, natural pro-
16 ducts are being converted, either partially or wholly, from their
17 natural state to a condition to be used as such clothing and
18 wearing apparel; (3) The mining or production of any substance
19 or material in common use as fuel either for domestic, manu-
20 facturing, or transportation purposes; (4) The transportation
21 of all food products and articles or substances entering into wear-
22 ing apparel, or fuel, as aforesaid, from the place where produced
23 to the place of manufacture or consumption.

24 (b) Any person, firm or corporation engaged in any such
25 industry or employment, or in the operation of such public
26 utility or common carrier, within the state of West Virginia,
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27 either in the capacity of owner, officer, or worker, shall be sub-
28 ject to the provisions of this act, except as limited by the pro-
29 visions of this act.

Sec. 4. Said court of industrial relations shall have its office
2 at the capitol of said state in the city of Charleston, and shall
3 keep a record of all its proceedings which shall be a public record
4 and subject to inspection the same as other public records of
5 this state. Said court, in addition to the powers and jurisdiction
6 heretofore conferred upon, and exercised by, the public utilities
7 commission, is hereby given full power, authority and jurisdic-
8 tion to supervise, direct and control the operation of the indus-
9 tries, employments, public utilities, and common carriers in all
10 matters herein specified and in the manner provided herein, and
11 to do all things needful for the proper and expeditious enforce-
12 ment of all the provisions of this act.

Sec. 5. Said court of industrial relations is hereby granted full
2 power to adopt all reasonable and proper rules and regulations
3 to govern its proceedings, the service of process, to administer
4 oaths, and to regulate the mode and manner of all its investi-
5 gations, inspections and hearings: *Provided, however,* that in
6 the taking of testimony the rules of evidence, as recognized by
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7 the supreme court of the state of West Virginia in original pro-
8 ceedings therein, shall be observed by said court of industrial
9 relations; and testimony so taken shall in all cases be transcribed
10 by the reporter for said court of industrial relations in duplicate,
11 one copy of said testimony to be filed among the permanent
12 records of said court, and the other to be submitted to said su-
13 preme court in case the matter shall be taken to said supreme
14 court under the provisions of this act.

Sec. 6. It is hereby declared and determined to be necessary
2 for the public peace, health and general welfare of the people of
3 this state that the industries, employments, public utilities and
4 common carriers herein specified shall be operated with reason-
5 able continuity and efficiency in order that the people of this
6-7 state may live in peace and security, and be supplied with the
8 necessities of life. No person, firm, corporation, or association
9 of persons shall in any manner or to any extent, wilfully hinder,
10 delay, limit or suspend such continuous and efficient operation
11 for the purpose of evading the purpose and intent of the pro-
12 visions of this act; nor shall any person, firm, corporation, or
13 association of persons do any act or neglect or refuse to perform
14 any duty herein enjoined with the intent to hinder, delay, limit

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15 or suspend such continuous and efficient operation as aforesaid,
16 except under the terms and conditions provided by this act.

Sec. 7. In case of a controversy arising between employers
2 and workers, or between groups or crafts of workers, engaged in
3 any of said industries, employments, public utilities, or common
4 carriers, if it shall appear to said court of industrial relations
5 that said controversy may endanger the continuity or efficiency
6 of service of any said industries, employments, public utilities or
7 common carriers, or affect the production or transportation of
8 the necessities of life affected or produced by said industries or
9 employments, or produce industrial strife, disorder or waste, or
10 endanger the orderly operation of such industries, employments,
11 public utilities or common carriers, and thereby endanger the
12 public peace or threaten the public health, full power, authority
13 and jurisdiction are hereby granted to said court of industrial
14 relations, upon its own initiative, to summon all necessary par-
15 ties before it and to investigate said controversy, and to make
16 such temporary findings and orders as may be necessary to pre-
17 serve the public peace and welfare and to preserve and protect the
18 status of the parties, property and public interests involved pend-
19 ing said investigations, and to take evidence and to examine all

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20 necessary records, and to investigate conditions surrounding the
21 workers, and to consider the wages paid to labor and the return
22 accruing to capital, and the rights and welfare of the public,
23 and all other matters affecting the conduct of said industries,
24 employments, public utilities or common carriers, and to settle
25 and adjust all such controversies by such findings and orders as
26 provided in this act. It is further made the duty of said court
27 of industrial relations, upon complaint of either party to such
28 controversy, or upon complaint of any ten citizen taxpayers of
29 the community in which such industries, employments, public
30 utilities or common carriers are located, or upon the complaint
31 of the attorney-general of the state of West Virginia, if it shall
32 be made to appear to said court that the parties are unable to agree
33 and that such controversy may endanger the continuity or efficiency
34 of service of any of said industries, employments, public utilities
35 or common carriers, or affect the production or transportation
36 of the necessities of life affected or produced by said industries or

37 employments, or produce industrial strife, disorder or waste, or
38 endanger the orderly operation of such industries, employments,
39 public utilities or common carriers, and thereby endanger the
40 public peace or threaten the public health, to proceed and in-
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41 vestigate and determine said controversy in the same manner as
42 though upon its own initiative. After the conclusion of any such
43 hearing and investigation, and as expeditiously as possible, said
44 court of industrial relations shall make and serve upon all in-
45 terested parties its findings, stating specifically the terms and con-
46 ditions upon which said industry, employment, utility or common
47 carrier should be thereafter conducted insofar as the matters de-
48 terminated by said court are concerned.

- Sec. 8. The court of industrial relations shall order such
2 changes, if any, as are necessary to be made in and about the
3 conduct of said industry, employment, utility or common carrier,
4 in the matters of working and living conditions, hours of labor,
5 rules and practices, and a reasonable minimum wage, or standard
6 of wages, to conform to the findings of the court in such matters,
7 as provided in this act, and such orders shall be served at the
8 same time and in the same manner as provided for the service of
9 the court's findings in this act; *provided*, all such terms, con-
10 ditions and wages shall be just and reasonable and such as to
11 enable such industries, employments, utilities or common carriers
12 to continue with reasonable efficiency to produce or transport
13 their products or continue their operations and thus to promote

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14 the general welfare. Service of such order shall be made in the
15 same manner as service of notice of any hearing before said
16 court as provided by this act. Such terms, conditions, rules,
17 practices, wages, or standard of wages, so fixed and determined
18 by said court and stated in said order, shall continue for such
19 reasonable time as may be fixed by said court, or until changed
20 by agreement of the parties with the approval of the court. If
21 either party to such controversy shall in good faith comply with
22 any order of said court of industrial relations for a period of
23 sixty days or more, and shall find said order unjust, unreasonable
24 or impracticable, said party may apply to said court of indus-
25 trial relations for a modification thereof and said court of indus-
26 trial relations shall hear and determine said application and

27 make findings and orders in like manner and with like effect as
28 originally. In such case the evidence taken and submitted in the
29 original hearing may be considered.

Sec. 9. It is hereby declared necessary for the promotion of
2 the general welfare that workers engaged in any of said indus-
3 tries, employments, utilities or common carriers shall receive
4 at all times a fair wage and have healthful and moral surround-
5 ings while engaged in such labor; and that capital invested there-
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6 in shall receive at all times a fair rate of return to the owners
7 thereof. The right of every person to make his own choice of
8 employment and to make and carry out fair, just and reasonable
9 contracts and agreements of employment, is hereby recognized.
10 If, during the continuance of any such employment, the terms
11 or conditions of any such contract or agreement hereafter entered
12 into, are by said court, in any action or proceeding properly be-
13 fore it under the provisions of this act, found to be unfair, un-
14 just or unreasonable, said court of industrial relations may by
15 proper order so modify the terms and conditions thereof so that
16 they will be and remain fair, just and reasonable and all such
17 orders shall be enforced as in this act provided.

Sec. 10. Before any hearing, trial or investigation shall be
2 held by said court, such notice as the court shall deem neces-
3 sary shall be given to all parties interested by registered United
4 States mail addressed to said parties to the post office of the usual
5 place of residence or business of said interested parties when same
6 is known, or by the publication of notice in some newspaper of
7 general circulation in the county in which said industry or em-
8 ployment, or the principal office of such utility or common carrier
9 is located, and said notice shall fix the time and place of said

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10 investigation or hearing. The costs of publication shall be paid
11 by said court out of any funds available therefor. Such notice
12 shall contain the substance of the matter to be investigated, and
13 shall notify all persons interested in said matter to be present
14 at the time and place named to give such testimony or to take
15 such action as they may deem proper.

Sec. 11. Said court of industrial relations may employ a com-
2 petent clerk, marshal, shorthand reporter, and such expert ac-
3 countants, engineers, stenographers, attorneys and other employees

4 as may be necessary to conduct the business of said court; shall
5 provide itself with a proper seal and shall have the power and
6 authority to issue summons and subpoenas and compel the at-
7 tendance of witnesses and parties and to compel the production
8 of the books, correspondence, files, records, and accounts of any
9 industry, employment, utility or common carrier, or of any per-
10 son, corporation, association or union of employees affected, and
11 to make any and all investigations necessary to ascertain the
12 truth in regard to said controversy. In case any person shall
13 fail or refuse to obey any summons or subpoena issued by said
14 court after due service then and in that event said court is hereby
15 authorized and empowered to take proper proceedings in any
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16 court of competent jurisdiction to compel obedience to such
17 summons or subpoena. Employees of said court whose salaries
18 are not fixed by law shall be paid such compensation as may be
19 fixed by said court, with the approval of the governor.

Sec. 12. In case of the failure or refusal of either party to
2 said controversy to obey and be governed by the order of said
3 court of industrial relations, then and in that event said court
4 is hereby authorized to bring proper proceedings in the supreme
5 court of the state of West Virginia to compel compliance with
6 said order; and in case either party to said controversy should
7 feel aggrieved at any order made and entered by said court of
8 industrial relations, such party is hereby authorized and em-
9 powered within ten days after service of such order upon it
10 to bring proper proceedings in the supreme court of the state of
11 West Virginia to compel said court of industrial relations to
12 make and enter a just, reasonable and lawful order in the prem-
13 ises. In case of such proceedings in the supreme court by either
14 party, the evidence produced before said court of industrial re-
15 lations may be considered by said supreme court, but said su-
16 preme court, if it deem further evidence necessary to enable it
17 to render a just and proper judgment, may admit such addi-

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18 tional evidence in open court or order it taken and transcribed
19 by a master or commissioner. In case any controversy shall be
20 taken by either party to the supreme court of the state of West
21 Virginia under the provisions of this act, said proceedings shall
22 take precedence over other civil cases before said court, and a

23 hearing and determination of the same shall be by said court ex-
24 pedit as fully as may be possible consistent with a careful and
25 thorough trial and consideration of said matter.

Sec. 13. No action or proceeding in law or equity shall be
2 brought by any person, firm or corporation to vacate, set aside,
3 or suspend any order made and served as provided in this act,
4 unless such action or proceeding shall be commenced within
5 thirty days from the time of the service of such order.

Sec. 14. Any union or association of workers engaged in
2 the operation of such industries, employments, public utilities
3 or common carriers, which shall incorporate under the laws of
4 this state shall be by said court of industrial relations considered
5 and recognized in all its proceedings as a legal entity and may
6 appear before said court of industrial relations through and by
7 its proper officers, attorneys or other representatives. The right
8 of such corporations, and of such unincorporated unions or as-
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9 sociations of workers, to bargain collectively for their members
10 is hereby recognized: *Provided*, That the individual members of
11 such unincorporated unions or associations, who shall desire to
12 avail themselves of such right of collective bargaining, shall ap-
13 point in writing some officer or officers of such union or asso-
14 ciation, or some other person or persons as their agents or trustees
15 with authority to enter into such collective bargains and to rep-
16 resent each and every of said individuals in all matters relating
17 thereto. Such written appointment of agents or trustees shall
18 be made a permanent record of such union or association. All
19 such collective bargains, contracts, or agreements shall be sub-
20 ject to the provisions of section nine of this act.

Sec. 15. It shall be unlawful for any person, firm or corpor-
2 ation to discharge any employee or to discriminate in any way
3 against any employee because of the fact that any such employee
4 may testify as a witness before the court of industrial relations,
5 or shall sign any complaint or shall be in any way instrumental
6 in bringing to the attention of the court of industrial relations
7 any matter of controversy between employers and employees as
8 provided herein. It shall also be unlawful for any two or more
9 persons, by conspiring or confederating together, to injure in any
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10 manner any other person or persons, or any corporation, in his,

11 their, or its business, labor, enterprise, or peace and security,
12 by boycott, by discrimination, by picketing; by advertising, by
13 propaganda, or other means, because of any action taken by any
14 such person or persons, or any corporation, under any order of
15 said court, or because of any action or proceeding instituted in
16 said court, or because any such person or persons, or corporation
17 shall have invoked the jurisdiction of said court in any matter
18 provided for herein.

Sec. 16. It shall be unlawful for any person, firm, or cor-
2 poration engaged in the operation of any such industry, employ-
3 ment, utility, or common carrier wilfully to limit or cease operations
4 for the purpose of limiting production or transportation or to
5 affect prices, for the purpose of avoiding any of the provisions
6 of this act; but any person, firm or corporation so engaged may
7 apply to said court of industrial relations for authority to limit
8 or cease operations, stating the reasons therefor, and said court
9 of industrial relations shall hear said application promptly, and
10 if said application shall be found to be in good faith and merit-
11 orious, authority to limit or cease operations shall be granted
12 by order of said court. In all such industries, employments,
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13 utilities or common carriers in which operation may be ordinarily
14 affected by changes in season, market conditions, or other reasons
15 or causes inherent in the nature of the business, said court of
16 industrial relations may, upon application and after notice to
17 all interested parties, and investigation, as herein provided, make
18 orders fixing rules, regulations and practices to govern the oper-
19 ation of such industries, employments, utilities or common car-
20 riers for the purpose of securing the best service to the public
21 consistent with the rights of employers and employees engaged
22 in the operation of such industries, employments, utilities or
23 common carriers.

Sec. 17. It shall be unlawful for any person, firm or corpor-
2 ation, or for any association of persons, to do or perform any
3 act forbidden, or to fail or refuse to perform any act or duty
4 enjoined by the provisions of this act, or to conspire or confeder-
5 ate with others to do or perform any act forbidden, or to fail or
6 refuse to perform any act or duty enjoined by the provisions
7 of this act, or to induce or intimidate any person, firm or cor-
8 poration engaged in any of said industries, employments, utili-

9 ties or common carriers to do any act forbidden, or to fail or
10 refuse to perform any act or duty enjoined by the provisions of

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11 this act, for the purpose or with the intent to hinder, delay,
12 limit, or suspend the operation of any of the industries, employ-
13 ments, utilities or common carriers herein specified or indicated,
14 or to delay, limit, or suspend the production or transportation
15 of the products of such industries, or employments, or the service
16 of such utilities or common carriers; *provided*, that nothing
17 in this act shall be construed as restricting the right of any in-
18 dividual employee engaged in the operation of any such industry,
19 employment, public utility, or common carrier to quit his em-
20 ployment at any time, but it shall be unlawful for any such
21 individual employee or other person to conspire with other per-
22 sons to quit their employment or to induce other persons to
23 quit their employment for the purpose of hindering, delaying, in-
24 terfering with, or suspending the operation of any of the indus-
25 tries, employments, public utilities, or common carriers governed
26 by the provisions of this act, or for any person to engage in what
27 is known as "picketing," or to intimidate by threats, abuse, or
28 in any other manner, any person or persons with intent to induce
29 such person or persons to quit such employment, or for the pur-
30 pose of deterring or preventing any other person or persons from
31 accepting employment or from remaining in the employ of any
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32 of the industries, employments, public utilities, or common
33 carriers governed by the provisions of this act.

Sec. 18. Any person wilfully violating the provision of
2 this act, or any valid order of said court of industrial relations,
3 shall be deemed guilty of a misdemeanor, and upon conviction
4 thereof in any court of competent jurisdiction of this state shall
5 be punished by a fine of not to exceed one thousand dollars, or by
6 imprisonment in the county jail for a period of not to exceed
7 one year, or by both such fine and imprisonment.

Sec. 19. Any officer or any corporation engaged in any of the
2 industries, employments, utilities or common carriers herein
3 named and specified, or any officer of any labor union or association
4 of persons engaged as workers in any such industry, employment,
5 utility or common carrier, or any employer of labor, coming with-
6 in the provisions of this act, who shall wilfully use the power,

7 authority or influence incident to his official position, or to his
8 position as an employer of others, and by such means shall in-
9 tentiously influence, impel, or compel any other person to vio-
10 late any of the provisions of this act, or any valid order of said
11 court of industrial relations, shall be deemed guilty of a felony
12 and upon conviction thereof in any court of competent juris-

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13 diction shall be punished by a fine not to exceed five thousand
14 dollars, or by imprisonment in the state penitentiary at hard
15 labor for a term not to exceed two years, or by both such fine
16 and imprisonment.

Sec. 20. In case of the suspension, limitation or cessation
2 of the operation of any of the industries, employments, public
3 utilities or common carriers affected by this act, contrary to the
4 provisions hereof, or to the orders of said court made hereunder,
5 if it shall appear to said court that such suspension, limitation,
6 or cessation shall seriously affect the public welfare by endanger-
7 ing the public peace, or threatening the public health, then said
8 court is hereby authorized, empowered and directed to take proper
9 proceedings in any court of competent jurisdiction of this state
10 to take over, control, direct and operate said industry, employ-
11 ment, public utility or common carrier during such emergency;
12 *provided*, that a fair return and compensation shall be paid to the
13 owners of such industry, employment, public utility or common
14 carrier, and also a fair wage to the workers engaged therein,
15 during the time of such operation under the provisions of this
16 section.

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Sec. 21. When any controversy shall arise between employer
2 and employee as to wages, hours of employment, or working or
3 living conditions, in any industry not hereinbefore specified, the
4 parties to such controversy may, by mutual agreement, and with
5 the consent of the court, refer the same to the court of indus-
6 trial relations for its findings and orders. Such agreement of
7 reference shall be in writing, signed by the parties thereto; where-
8 upon said court shall proceed to investigate, hear, and determine
9 said controversy as in other cases, and in such case the findings
10 and orders of the court of industrial relations as to said contro-
11 versy shall have the same force and effect as though made in
12 any essential industry as herein provided.

Sec. 22. Whenever deemed necessary by the court of industrial relations, the court may appoint such person, or persons, having a technical knowledge of bookkeeping, engineering, or other technical subjects involved in any inquiry in which the court is engaged, as a commissioner for the purpose of taking evidence with relation to such subject. Such commissioner when appointed shall take an oath to well and faithfully perform the duties imposed upon him, and shall thereafter have the same power to administer oaths, compel the production of evidence, and the attendance of witnesses as the said court would have if sitting in the same matter. Said commissioner shall receive such compensation as may be provided by law or by the order of said court, to be approved by the governor.

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Sec. 23. Any order made by said court of industrial relations as to a minimum wage or a standard of wages shall be deemed *prima facie* reasonable and just, and if said minimum wage or standard of wages shall be in excess of the wages theretofore paid in the industry, employment, utility or common carrier, then and in that event the workers affected thereby shall be entitled to receive said minimum wage or standard of wages from the date of the service of summons or publication of notice instituting said investigation, and shall have the right individually, or in case of incorporated unions or associations, or unincorporated unions or associations entitled thereto, collectively, to recover in any court of competent jurisdiction the difference between the wages actually paid and said minimum wage or standard of wages so found and determined by said court in such order. It shall be the duty of all employers affected by the provisions of this act, during the pendency of any investigation brought under this act, or any litigation resulting therefrom, to

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keep an accurate account of all wages paid to all workers interested in said investigation or proceeding; *provided*, that in case said order shall fix a wage or standard of wages which is lower than the wages theretofore paid in the industry, employment, utility or common carrier affected, then and in that event the employers shall have the same right to recover in the same manner as provided in this section with reference to the workers.

Sec. 24. With the consent of the governor, the judges of said

2 court of industrial relations are hereby authorized and empowered
3 to make, or cause to be made, within this state or elsewhere,
4 such investigations and inquiries as to industrial conditions and
5 relations as may be profitable or necessary for the purpose of
6 familiarizing themselves with industrial problems such as may
7 arise under the provisions of this act. All the expenses incurred
8 in the performance of their official duties by the individual mem-
9 bers of said court and by the employees and officers of said court,
10 shall be paid by the state out of funds appropriated therefor by
11 the legislature, but all warrants covering such expenses shall be
12 approved by the governor of said state.

Sec. 25. The rights and remedies given and provided by this
2 act shall be construed to be cumulative of all other laws in force

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3 in said state relating to the same matters, and this act shall not
4 be interpreted as a repeal of any other act now existing in said
5 state with reference to the same matters referred to in this act,
6 except where the same may be inconsistent with the provisions
7 of this act.

Sec. 26. The provisions of this act and all grants of power,
2 authority and jurisdiction herein made to said court of industrial
3 relations shall be liberally construed and all incidental powers
4 necessary to carry into effect the provisions of this act are hereby
5 expressly granted to and conferred upon said court of industrial
6 relations.

Sec. 27. Annually and on or before January first of each
2 year, said court of industrial relations shall formulate and make
3 a report of all its acts and proceedings, including a financial
4 statement of expenses, and shall submit the same to the governor
5 of this state for his information. All expenses incident to the
6 conduct of the business of said court of industrial relations shall
7 be paid by the said court on warrants signed by its presiding
8 judge and clerk, and countersigned by the governor and shall
9 be paid out of funds appropriated therefor by the legislature.
10 The said court of industrial relations shall, on or before the
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11 convening of the legislature, make a detailed estimate of the
12 probable expenses of conducting its business and proceedings for
13 the ensuing two years, and attach thereto a copy of the reports

14 furnished the governor, all of which shall be submitted to the
15 governor of this state and by him submitted to the legislature.

Sec. 28. If any section or provision of this act shall be found
2 invalid by any court, it shall be conclusively presumed that this
3 act would have been passed by the legislature without such invalid
4 section or provision, and the act as a whole shall not be declared
5 invalid by reason of the fact that one or more sections or pro-
6 visions may be found to be invalid by any court.

Sec. 29. All acts and parts of acts in conflict herewith are
2 hereby repealed.

House Bill No. 403

(BY MR. MCPHERSON, by request.)

[Introduced January 25, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 403

A BILL prohibiting certain work on Sunday and providing penalties
for the violation of this act.

Be it enacted by the Legislature of West Virginia:

Section 1. Except in cases of emergency, it shall be unlawful
2 for any person to require or permit an employee engaged in any
3 commercial occupation, transportation, or in the work of any in-
4 dustrial process, to do any work of his occupation on Sunday
5 unless such employee shall be relieved from work for one full
6 regular working day during the six days next ensuing.

Sec. 2. This act shall not be construed as prohibiting any work
2 or play on Sunday; nor as applying to farm or personal service,
3 base ball, golf, lawn tennis, croquet, druggists, watchmen, janitors,
4 nor to the sale or delivery of milk, ice or newspapers.

Sec. 3. Any person violating any provisions of this act shall
2 be fined not more than twenty-five dollars for each offense. All
3 fines imposed and collected under the provisions of this act shall

4 be paid to the state treasurer and distributed to the school districts that are not self sustaining.

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Sec. 4. All acts or parts of acts in conflict with this act are hereby repealed.

House Bill No. 157

(BY MR. McCINTIC, of Kanawha.)

[Introduced January 19, 1921; referred to the Committee on Education.]

House Bill No. 157

A BILL to create the independent school district of South Charleston, in the county of Kanawha, state of West Virginia.

Be it enacted by the Legislature of West Virginia:

Section 1. The following described territory shall hereafter be the independent school district of South Charleston: to-wit:

Beginning at a point on the north side of Kanawha river, at pool water mark and in the west line of Patrick street of the city of Charleston, West Virginia, thence running with the said corporation line of the city of Charleston to the south side of the Kanawha river at pool water mark; thence running down the river along pool water mark nine hundred and fifty feet, more or less, to the east bank of Joplin branch along its east bank five thousand two hundred and fifteen feet, more or less, to a stake with a small sycamore pointed on the east bank, and a large beech pointer on the west bank; thence leaving Joplin branch north seventy-five degrees west two thousand six hundred feet, more or less, to a stake at the southeast back corner of the Shepherd reservation, south twenty-nine degrees, twenty-eight west, one thousand and forty feet, more or less, to the southwest corner of the Shepherd reservation; thence leaving said reservation south sixty-two degrees fifteen minutes west seven thousand and seventy-five feet to a stake

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19 on the west bank of Davis creek, about one hundred feet above the
20 mouth of the small left hand branch; thence along the west bank
21 of Davis creek to pool water mark of Kanawha river; thence north
22 forty-four degrees west crossing Kanawha river about six hundred
23 feet to pool water mark on the north side of said river; thence
24 running up the river along pool water mark about three miles to
25 beginning, containing about three square miles, more or less, said
26 boundaries being co-extensive with the boundaries of the municipi-
27 palty of South Charleston.

Sec. 2. The board of education of said district shall consist
2 of three members who to be eligible to election as such members
3 of said board shall have paid either directly or indirectly, for the
4 preceding year in such territory taxes on real or personal property,
5 or both, of the assessed value of five hundred dollars, or have chil-
6 dren of school age, and shall reside within independent school dis-
7 trict, and not be absent from the said district more than thirty
8 consecutive days during the school year, who shall be elected by
9 the qualified voters resident therein; and shall be vested with the
10 same rights and exercise the same powers, perform the same duties.
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11 and be governed by the same laws that boards of education else-
12 where in the state of West Virginia are or may hereafter be gov-
13 erned, except in so far as changed by the provisions of this act,
14 two of whom shall constitute a quorum.

Sec. 3. There shall be appointed by the city council of the
2 municipality of South Charleston, within fifteen days after the
3 ratification of this act by the voters of Loudon district, three school
4 commissioners or members of the board of education of said dis-
5 trict, not more than two of whom shall be members of the same
6 political party, and who shall be qualified as herein provided, whose
7 office shall begin on the first day of July, one thousand nine hun-
8 dred and twenty-one, and who shall hold their respective offices
9 until the first day of July, one thousand nine hundred and twenty-
10 two, or until their successors are elected and qualified as herein-
11 after provided. There shall be nominated and elected as pro-
12 vided for the nomination and election of other officers in the
13 municipality of South Charleston at the regular municipal elec-
14 tion in said South Charleston, three members of the board of edu-
15 cation of said district, one member for two years, one member for
16 four years, and one member for six years. The member receiving

17 the highest number of votes shall be declared elected for six years,
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18 the member receiving the next highest number of votes shall be
19 declared elected for four years, and the member receiving the next
20 highest number of votes shall be declared elected for two years.
21 Thereafter one member shall be elected each two years at the regu-
22 lar election for municipal officers of said city who shall hold his
23 office for the term of six years, unless removed from office as pro-
24 vided in this act and the general school laws of this state. If two
25 or more members in the first election shall receive the same number
26 of votes, the said city council shall decide who shall hold the two,
27 four and six year term. The ballot used shall be separate from
28 the ballot for the city officers of said municipality, but the election
29 shall be conducted by the same officers who conduct the city elec-
30 tion, without extra compensation.

Sec. 4. Said board of education shall take the oath of office
2 as required by the general school law of West Virginia; shall hold
3 a meeting prior to the first Monday in July and select one of the
4 members thereof as the president thereof for the ensuing year but
5 after the year one thousand nine hundred and twenty-one said
6 meetings shall be held on the third Tuesday in April. The presi-
7 dent of said board shall receive forty dollars per year; the com-
8 missioners shall receive thirty dollars per year, each. Said board
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9 of education shall fill as vacancies in their membership, caused by
10 death, resignation or otherwise, at the next regular meeting after
11 such vacancy occurs, until the next election for board member,
12 but in case the board of education should fail to fill said vacancy
13 it shall devolve upon the county superintendent of Kanawha
14 county, to fill said vacancy until the election for board members.
15 Said board of education shall select a secretary thereof at their first
16 meeting in July for the years, whose term of office shall end on
17 the thirtieth day of June next thereafter. The salary of the sec-
18 retary shall be fixed by the board of education, but shall not ex-
19 ceed seventy-five dollars per year.

Sec. 5. Said board of education shall be a body corporate in
2 law by the name of the board of education of the independent dis-
3 trict of South Charleston, and as such may sue and be sued, plead
4 and be impleaded, contract and be contracted with, and have a
5 common seal. Said board of education shall be the owners of

6 all school property within the limits of said independent district
7 now held by the board of education of Loudon district, in its cor-
8 porate name, and have full power and authority to provide for
9 such buildings, furniture, supplies, and apparatus for the schools

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10 in said independent district as said board of education may think
11 suitable, proper, necessary or convenient for said schools.

Sec. 6. Said board of education shall hold as many stated or
2 regular meetings as they may deem necessary, and it shall not be
3 necessary to give any notice of said meetings to any member
4 of said board; and they may hold as many special meetings as
5 the members thereof may find expedient or proper, which may
6 be called by the president thereof, or by the secretary upon re-
7 quest by either of the two commissioners of the said board. No
8 special meeting of said board shall be held except that all mem-
9 bers thereof be present, or after each member thereof has had
10 twelve hours' notice of such meeting given to him by the secretary
11 of said board, but no business shall be transacted without a ma-
12 jority of the members are present.

Sec. 7. Said board of education shall also meet at the times
2 and perform the duties required by boards of education other
3 than those for independent school districts, except as herein other-
4 wise provided, for the purpose of making, and shall make, esti-
5 mates of the money required to maintain the schools in said inde-
6 pendent school district for the ensuing year, both as to the
7 teachers' and building funds, and to provide for a sinking fund
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8 to pay off any bonded indebtedness; and said board of education
9 shall determine the number of months of school to be taught in
10 said district for said year, both in the high and graded schools
11 and any department thereof, which shall not be fewer than
12 nine months for any one year; and shall levy upon the taxable
13 property in said independent school district a sufficient sum
14 for said purposes, which, however, shall not exceed ninety cents on
15 each one hundred dollars' valuation of the taxable property therein
16 for the teachers' fund and fifty cents for new building fund, and
17 twenty cents for maintenance fund.

Sec. 8. It shall be the duty of the assessor or other person or
2 persons who may be charged with the duty of assessing and
3 determining the value of the property in said independent school

4 district, from and after the passage of this act, to list and assess
5 all of the property in said district as required by law and here-
6 in provided, and designate that such property is within said dis-
7 trict; and it shall be the duty of the sheriff of said county or
8 any other officer whose duty it shall be to collect and receive taxes
9 in and for said independent school district, to collect, deposit,
10 account for, and pay out the taxes received by him for school
11 purposes as herein provided, in the manner provided by law in

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12 respect to all other school moneys collected or received by him for
13 the use of any other district in his county.

Section 9. The board of education shall have authority to
2 establish within the independent district a high school and lay
3 sufficient levies to provide for its maintenance and upkeep and
4 may issue bonds to raise sufficient funds herewith to establish
5 such school not in excess of five per cent of the total value of
6 the property in said independent district; but no such school
7 shall be established; nor shall any such bonds be issued till
8 the question of the establishment of such schools and the issu-
9 ance of such bonds first be submitted to the legal voters of the
10 independent district at a general or special election to be held
11 for this purpose, and a three-fifths vote of the voters voting
12 be cast in favor of the establishing of such high school, and
13 the issuing of such bonds. The board shall also provide high
14 school for the colored youths of said independent district when the
15 number of colored youths justifies the establishment of such
16 school but in no case shall a high school be maintained for the
17 colored youths without a daily attendance of ten.

Sec. 10. Said board of education shall have power to estab-
2 lish and maintain a library, which shall be for the use of the
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3 public schools of the district, and the inhabitants thereof, under
4 such regulations as the said board of education may prescribe;
5 and said board may receive, hold and use any gift, bequest or de-
6 vise for the benefit of such library or for any other school pur-
7 poses. For the purpose of establishing and maintaining such
8 library, the said board of education may also appropriate from
9 the building fund of said district funds for such library pur-
10 poses.

Sec. 11. At the meeting of said board to be held on the

2 third Tuesday in April, or as soon thereafter as practicable, said
 3 board of education shall appoint a superintendent of schools for
 4 said independent school district, and fix his salary, whose term
 5 shall begin on the first day of July next succeeding his ap-
 6 pointment, or as soon thereafter as he is appointed, and con-
 7 tinue for a term of not more than two years as determined by the
 8 board; but he may be removed by the board at any time for in-
 9 competency, neglect of duty, intemperance, profanity, cruelty or
 10 immorality; and any vacancy in the office of superintendent
 11 shall be filled by the board of education for the unexpired term.
 12 The superintendent shall exercise general supervision over the
 13 schools, prepare and revise the course of study to be used in

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14 the schools, subject to the approval of the board; make all neces-
 15 sary reports; and insofar as he is able to do so, he shall fur-
 16 nish such information relating to school or school work as the
 17 board may desire; he shall advise with the board in the selec-
 18 tion of teachers and in assigning them to their work in the
 19 schools.

Sec. 12. At a meeting of the board of education to be held
 2 not later than the tenth day of March each year, the board shall
 3 appoint a competent person or persons to make an enumeration
 4 of all the youths resident in said district, who shall be over six
 5 and under twenty-one years of age, on the first day of July fol-
 6 lowing in the manner prescribed by the general school law of the
 7 state, such enumeration to be reported under oath to the secretary
 8 of the board of education. For making such enumeration, the
 9 board of education shall pay said person or persons such amount
 10 as was agreed upon before the enumeration was made, which
 11 amount shall not exceed two cents for each youth enumerated, or
 12 at the discretion of the board of education, the teachers may be
 13 required to take the enumeration.

Sec. 13. The board of education of said independent school
 2 district shall appoint all teachers, supervisors, and principals for
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3 the public schools within said district and fix their compensa-
 4 tion; the said teachers, supervisors, and principals shall be sub-
 5 ject to the rules and regulations adopted by the board of edu-
 6 cation for the management of the schools; and they may be
 7 removed by said board at any time for incompetency, neglect

8 of duty, intemperance, profanity, cruelty or immorality. Sub-
9 stitutes for vacancies occurring in the teaching force of the
10 district shall be appointed by the superintendent of schools and
11 shall serve until the next regular meeting of the board of edu-
12 cation, when said superintendent shall report such vacancies to
13 the board, who shall appoint qualified teachers to fill the vacan-
14 cies. The said board of education shall also appoint such jani-
15 tors, custodians, of the school buildings, and such attendance offi-
16 cers as the board may deem necessary, and fix the compensation
17 to be paid to them; and the said board may remove any such
18 janitor, custodian of said buildings and other property, or attend-
19 ance officer for neglect of duty, incompetency, gross immorality,
20 or whenever it shall appear to said board from any cause that
21 such removal is for the best interests of the schools of said district.

Sec. 14. Every person having under his control a child or
2 children between the ages of seven and fifteen years, residing with-

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3 in said independent school district, shall cause such child or
4 children to attend the public school in the said district; such
5 attendance to begin at the opening of, and continue through, the
6 school term; and for every neglect of such duty the person of-
7 fending shall be guilty of a misdemeanor, and shall upon con-
8 viction thereof, be fined two dollars for the first offense and five
9 dollars for each subsequent offense, together with the costs of
10 prosecution; and at the discretion of the court, or justice, the
11 said person offending may be required to enter into a bond in
12 the penal sum of fifty dollars, payable to the board of education
13 of said district with security to be approved by the court or jus-
14 tice, that the person so convicted will cause such child or children
15 to attend public school in accordance with the provisions of this
16 act. Any and all sums that may be recovered on any and all
17 bonds and fines under the provisions of this act shall be placed
18 to the credit of the building fund of said district. Any failure
19 to give such bond in the manner and within the time therefor
20 prescribed by the court or justice shall be a misdemeanor, and
21 be punished by a fine of not less than one dollar nor more than
22 five dollars, and the cost of prosecution.

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23 An offense, as intended and provided by this act, shall con-
24 sist in the failure of such person or persons to send to school

25 such child or children for more than one day in any one week
26 in which the schools are in session, unless the attendance of such
27 child or children is prevented by personal sickness, or other
28 reasonable excuse, *provided*, that if such child or children shall
29 have been graduated from the grammar grades, or otherwise in-
30 structed for a like period of time in the subjects required to
31 be taught in the public schools of said district; or, if in the
32 opinion of the medical inspector of the said district, the mental
33 or physical condition of such child or children is such as to
34 render such attendance inexpedient or impracticable, such pen-
35 alty shall not be incurred.

36-37 If any person against whom such proceedings shall be insti-
38 tuted shall satisfactorily prove in the course of such proceedings
39 that he has made all proper efforts and used due diligence to
40 compel any child under his control to attend school as herein-
41 before provided, and that because of the disobedience of such
42 child, he has been unable to do so such facts shall constitute a
43 defense to such proceedings. Whereupon the attendance officer
44 shall take such steps and proceedings before the proper court to

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45 have such child adjudged incorrigile and committed to the West
46 Virginia industrial school for boys at Pruntytown, or the girls'
47 school at Salem.

48 The attendance officers provided for in section fourteen of this
49 act shall be and are hereby vested with police powers, and with
50 authority to serve warrants, and shall have authority to enter work-
51 shops, factories, stores and other places where children may be
52 employed, and do whatever may be necessary in the way of in-
53 vestigation or otherwise to enforce this act; when so directed by
54 the superintendent of schools, the board of education, or when it
55 comes to their notice otherwise, such attendance officers shall ex-
56 amine into any and all cases of truancy or unexplained absence
57 from school of any child within the age limits provided in this
58 act; and such attendance officers shall keep a record of their
59 transactions for the inspection and information of the superin-
60 tendent of schools, and the board of education, and shall make
61 such reports as said superintendent or board may require. The
62 circuit court or any justice of the peace of Kanawha county shall
63 have jurisdiction over and take cognizance of any and all of-
64 fenses provided by, and all violations, of this act.

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Sec. 15. All provisions of the general law of this state which are inconsistent or in conflict with any of the provisions of this act shall be void within said independent school district; otherwise to remain in full force and effect therein.

Sec. 16. That in the event of a majority of the voters cast at any election which shall be held as hereinafter provided on the third Tuesday in May one thousand nine hundred and twenty-one in the district of Loudon and county of Kanawha, vote in favor thereof, the territory included within the boundaries of the said municipality of South Charleston, as bounded and designated in section of this act, shall constitute and be, and the same is hereby created independent school district of South Charleston in the county of Kanawha. The election shall be held under the supervision of the board of education of the district of Loudon in the county of Kanawha. The said board of education shall prepare or cause to be prepared a notice, stating that the question of ratifying the act of the legislature of the state of West Virginia creating the independent district of South Charleston in the county of Kanawha, out of part of the territory embraced in the district of Loudon in said county will be submitted to the voters of said Loudon district at a special election to be held on the third

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Tuesday in May one thousand nine hundred and twenty-one, at the regular voting places in said Loudon district, which notice shall be signed by the president and secretary of said board and be posted at least ten days before said election at the voting places in said district. Said notice shall also be published once a week for two weeks prior to said election in two newspapers of opposite politics published in the city of Charleston. The said board of education of the district of Loudon shall appoint commissioners and poll clerks to conduct said election, ascertain the results thereof within five days after said election is held by holding a meeting and canvassing the ballots which result shall be immediately certified to the county superintendent and county clerk by the secretary. The registration list used in the general election held the second day of November, one thousand nine hundred and twenty, shall be used and no one shall be allowed to vote who was not registered in said registration.

34 The ballots to be voted at said election shall be printed upon
35 plain white paper and the following form:

36 SCHOOL DISTRICT ELECTION.

37 [*Indicate how you desire to vote by a cross in the square.*]

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39 of South Charleston independent district.

40 [] Against ratification

41 of South Charleston independent district.

38 [] For ratification

House Bill No. 517

(By MR. HEAVENER.)

[Introduced January 26, 1921; referred to the Committee on Education.]

House Bill No. 517

A BILL relating to a special levy for the construction of additional rooms to the Red Sulphur district high school at Peterstown, West Virginia.

WHEREAS; the people of Red Sulphur district, Monroe county, West Virginia, have established at Peterstown, in said district a six room brick high school building, and have a three year high school; that said building is inadequate in size and equipment to care for the pupils enrolled and desiring to enroll, and whereas a sufficient addition is estimated to cost some five or six thousand dollars, and the maximum levy allowed by law for the building fund of said district will not raise a sufficient fund with which to erect and equip such an addition as is direly needed; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Red Sulphur district, of
2 Monroe county, West Virginia, is hereby empowered, in addition
3 to all the levies now authorized by law, to lay a special building
4 fund levy not to exceed eight cents on the one hundred valu-
5 ation of all the taxable property in the said district for the sole
6 purpose of raising funds to assist in building an addition to the

7 Red Sulphur district high school, located at Peterstown, in said
 4 [H. B. No. 517
 8 district, and equipping and preparing the building sufficient that
 9 the same may become a four year high school of the first class;
 10 which said levy shall be laid for the three years, one thousand
 11 nine hundred and twenty-one, one thousand nine hundred and
 12 twenty two and one thousand nine hundred ad twenty-three, re-
 13 spectively, only.

Sec. 2. *Provided*, that the provisions of this act shall not be-
 2 come operative until ratified by a three fifths vote of the registered
 3 voters of said Red Sulphur district.

House Bill No. 426

(BY MR. TAYLOR, by request)

[Introduced January 25, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 426

A BILL allowing farmers' co-operative organizations and other
 mutual societies, where no dividends are declared, to be char-
 tered, issue stock, etc.

Be it enacted by the Legislature of West Virginia:

Section 1. That it shall be lawful for farmers' co-operative
 2 societies, farm bureaus, market clubs, mutual telephone com-
 3 panies, and other co-operative society, guild, or organization, for
 4 the promotion of the mutual interests of its members to be or-
 5 ganized, issue stock to its members, and otherwise conduct said
 6 business the same as if it were an incorporation organized under
 7 the laws of this state; *provided*, it does not declare dividends,
 8 but conducts said business for the mutual welfare of its mem-
 9 bers; and, *provided, further*, that its members are citizens of
 10 this state.

Sec. 2. When five or more citizens of any county or counties
 2 of this state desire to organize for their mutual welfare, they
 3 shall file with the county court of the county where their prin-

4 cipal office will be located a declaration showing the purpose of
 5 the organization proposed, its by-laws, the value of each share of
 4 [H. B. No. 426
 6 its stock, and any other information that would be pertinent to
 7 said organization. If the court finds that the purposes of said
 8 society are lawful as set out in section one, then said court shall
 9 enter an order granting a charter to said society, organization,
 10 club, or bureau, allowing it to conduct business in this state;
 11 and said declaration of purpose, together with the by-laws, and
 12 the court's order, shall be entered by the clerk of said court in
 13 a book to be kept for said purpose. A fee of twenty-five dollars
 14 shall be paid to the state, which shall cover the recordation of
 15 all papers, orders, and a certified copy of the charter creating
 16 said society.

Sec. 3. Said society shall have the right to sue and be sued,
 2 plead and be impleaded, appoint directors, and managers, issue
 3 stock to its members, the same as other incorporated companies of
 4 this state under chapters fifty-two, fifty-three and fifty-four of
 5 the code. The personal liability of any member of the society
 6 so constituted shall be limited to the face value of the stock
 7 held by the party to whom it was issued.

Sec. 4. Any society duly organized under the provisions of
 2 this act shall annually pay to the sheriff of the county where the
 3 principal office is located, a tax of ten dollars; said tax and fees
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 4 shall be paid into the state school fund. Said incorporation shall
 5 be exempt from any other form of taxation.

House Bill No. 215

(By Mr. Avis, by request)

[Introduced January 20, 1921; referred to the Committee on Game
 and Fish.]

House Bill No. 215

A BILL to amend and re-enact section twenty-six of chapter sixty-two
 of Barnes' code of West Virginia, being section twenty-six of

chapter fourteen of the acts of one thousand nine hundred and fifteen, as amended and re-enacted by section twenty-six of chapter fourteen of the acts of one thousand nine hundred and nineteen, relating to the protection and preservation of certain animals, birds and fish.

Be it enacted by the Legislature of West Virginia:

That section twenty-six of chapter sixty-two of Barnes' code of West Virginia, being section twenty-six of chapter fourteen of the acts of one thousand nine hundred and fifteen, as amended and re-enacted by section twenty-six of chapter fifty-two of the acts of one thousand nine hundred and nineteen, be amended and re-enacted so as to read as follows:

Section 26. It shall be unlawful for any person to catch, kill
2 or injure, or to pursue with the intent to catch, kill or injure,
3 any ruffed grouse, or pheasant or wild turkey between the first
4 day of December and the fifteenth day of October of the following
5 year; or any quail or Virginia partridge between the first day of

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6 December and the first day of November following. Nor shall any
7 one person kill more than twelve quail or five ruffed grouse or two
8 wild turkeys in any one day, and no more than sixty quail or
9 twenty ruffed grouse, or five wild turkeys in any one open season.
10 No person shall kill any wild ducks, goose, or brant between the
11 first day of January and the first day of October; *provided*, that
12 the wood duck shall not be killed at any time within this state;
13 woodcock between the thirtieth day of November and the first
14 day of October following; plover, ortolan, or sandpiper between
15 the fifteenth day of December and the first day of September
16 following; or any snipe between the fifteenth day of September
17 and the fifteenth day of October following; nor any gray, black,
18 fox or red squirrel between the first day of December and the
19 fifteenth day of September of the following year. Nor shall any
20 person kill more than ten squirrels in any one day, nor more than
21 seventy in any open season.

22 It shall be unlawful for any person to catch, kill or injure,
23 or pursue with intent to catch, kill or injure any rabbit between
24 the first day of January and the first day of October following;
25 *provided*, it shall be lawful for any person or any of his children
26 or agents to catch, kill or pursue at any time any rabbit upon his
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27 own land or upon any land upon which he may be an actual
28 *bona fide* tenant or resident, and also for the *bona fide* agent of
29 the owner of such land to hunt and kill any rabbit thereon by the
30 direction of such owner otherwise than by the use of a ferret; but
31 for the protection of orchards, gardens and young fruit trees or
32 vines, rabbits may be lawfully hunted with ferrets by the owners
33 thereof or their agents.

34 It shall be unlawful for any person to catch, kill or injure by
35 means of a gun, snare, trap or poison any red fox, or skunk
36 between the first day of February and the first day of December
37 following, except in the following named counties: Pocahontas,
38 Randolph, Fayette, Pendleton, Monroe, Jefferson, Hardy, Wayne,
39 Wood, Marshall, Mason, Gilmer, Hancock, Lincoln, Hampshire,
40 Braxton, Raleigh, Webster, Putnam, Preston, Lewis, Jackson,
41 Mercer, Greenbrier, Berkeley, Tyler, Boone, Kanawha, Barbour,
42 McDowell, Tucker and Calhoun; *provided, however*, that it shall
43 be lawful for any person at any time or by any means to catch,
44 kill or pursue any red fox or skunk upon his own land, or on any
45 lands upon which he may be an actual *bona fide* tenant or resident,
46 and also for the agent of the owner or tenant of such land to so

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47 hunt and kill any red fox or skunk thereon by the direction of
48 such owner or tenant.

49 It shall be unlawful for any person at any time to set or main-
50 tain any snare upon the improved or inclosed lands of another
51 without the express permission of the owner or tenant of such
52 lands, or at any time to set or maintain any steel or spring bear
53 trap upon any lands not his own.

55 Any person violating any of the provisions of this section shall
56 be guilty of a misdemeanor and upon conviction thereof shall be
57 fined not less than twenty-five dollars and not more than fifty
58 dollars for each offense, and in the discretion of the justice or
59 court trying the case, be imprisoned in the county jail for a
60 period not exceeding thirty days for each offense; and the unlawful
61 catching, killing or injuring of each and every wild game bird,
62 or wild game animal hereinbefore mentioned in this section, shall
63 be deemed a separate offense, and in default of the payment of
64 the fine and cost, the person convicted shall be confined in the
65 county jail for a period not exceeding thirty days, unless such
66 fine and cost be sooner paid; *provided, however*, that the forest.

67 game and fish warden or deputy warden, or other person under
68 the direction of a warden may capture by any means any of the
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69 game birds or game animals to keep them alive for propagation
70 purposes. And *provided, further*, that the warden may give
71 written permission to any responsible person as provided by sec-
72 tion thirty-eight of this chapter.

House Bill No. 442

(By MR. STROTHER.)

[Introduced January 25, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 442

A BILL to provide for the examination and certification of short-
hand reporters; for the appointment of a board of examiners for
the purpose; to prohibit the use of the term "Certified Short-
hand Reporter" except by persons to be authorized hereunder,
and to provide a penalty for violations hereof.

Be it enacted by the Legislature of West Virginia:

Certified Shorthand Reporters.

Section 1. That any citizen of the state of West Virginia, or
2 any citizen of any other state, having an office in this state, being
3 over the age of twenty-one years, and of good moral character,
4 and who shall have received from the governor of the state of
5 West Virginia a certificate to practice as a certified shorthand
6 reporter as hereinafter provided, shall be designated and known
7 as a certified shorthand reporter; and every person holding such
8 certificate, and every copartnership of shorthand reporters, every
9 member of which shall hold such certificate, may assume and use
10 the title of certified shorthand reporter, or the abbreviation thereof
11 "C. S. R."

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Board of Examiners.

Sec. 2. The governor of the state of West Virginia shall ap-
2 point a board of three examiners for the examination of persons

3 applying for certification under this act. Two of said examin-
4 ers shall be shorthand reporters who have been in practice for at
5 least five years, one of whom shall be appointed for the term of
6 two years, and one for the term of three years, and upon the ex-
7 piration of each of said terms an examiner shall be appointed for
8 the term of three years, and said two examiners shall be certified
9 as shorthand reporters by the governor upon their appointment.
10 The other examiner shall be a practicing attorney in good stand-
11 ing in any of the courts of West Virginia, who shall be appointed
12 for the term of one year, and upon the expiration of said term
13 a successor shall be appointed for the term of three years. Said
14 board shall elect from their own members a chairman, a secre-
15 tary and a treasurer, and shall require the treasurer to enter into
16 a bond payable to the state of West Virginia in such penalty and
17 with such surety as the board may approve, which said bond, when
18 so executed, shall be filed with the secretary of state. The exami-
19 nation for certificates shall be based upon an examination on the
20 English language, shorthand ability and such other subjects as
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21 the board may from time to time specify. Said examination
22 shall be held annually in the city of Charleston, at such time
23 and under such rules and regulations as may be fixed and adopt-
24 ed by the board. Each applicant for such certificate shall pay
25 a fee of twenty-five dollars to the treasurer of the examining
26 board, from which shall be paid the expenses incident to such
27 examination, clerk hire, stationery and traveling expenses of the
28 examining board, also a fee of ten dollars per day to each mem-
29 ber of the board for the actual time spent by each in making such
30 examination. The residue of such fees received shall be paid
31 to the state treasurer before the thirteenth day of September of
32 each year by the treasurer of said board. There shall be no
33 appropriation whatsoever made to maintain this board.

34 Any member of said board may, upon being duly designated
35 by the board or a majority thereof, administer oaths or take
36 testimony concerning any matter within the jurisdiction of the
37 board.

38 The result of all examinations shall be certified by the board
39 to the governor and filed in the office of the secretary of state
40 and kept for reference and inspection for a period of not less
41 than five years; and the applicant, upon passing the examination

42 provided by the board, shall receive a certificate of his qualification
43 as such certified shorthand reporter by the governor.

Revocation of Certificate.

Sec. 3. The governor of the state of West Virginia may re-
2 voke any such certificate, upon the recommendation of the board
3 of examiners, who, before making such recommendation, shall
4 give written notice to the holder thereof and give him the right
5 to appear for a hearing thereon.

Waiver of Examination.

Sec. 4. The board of examiners may, in its discretion, waive
2 the examination of any person who shall show, by satisfactory
3 evidence, to said board, that he has been for at least one year
4 prior to the passage of this act practicing in the state of West
5 Virginia or any other state as a shorthand reporter, and who shall
6 apply in writing for a certificate within three months after the
7 passage of this act.

Fraudulent Misrepresentations.

Sec. 5. Any person who shall hold himself out as having re-
2 ceived the certificate as provided for in this act, or who shall as-
3 sume to practice thereunder as a certified shorthand reporter, or
4 use the term "certified shorthand reporter" or the initials "C.
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5 S. R.," without having received the certificate provided for in
6 this act, shall be deemed guilty of a misdemeanor, and upon con-
7 viction thereof in any court of competent jurisdiction shall be
8 sentenced to pay a fine not exceeding five hundred dollars.

Report by Examiners to Governor.

Sec. 6. It shall be the duty of the said board of examiners,
2 on or before the first Monday in October of each and every year,
3 to make a report in writing to the governor of this state, contain-
4 ing a detailed statement of the fees received and sums expended
5 and the balance remaining on hand at the end of the fiscal year,
6 after payment of the necessary expenses as provided in this act.

House Bill No. 478

(By MR. ZIMMERMAN)

[Introduced January 26, 1921; referred to the Committee on Edu-
cation.]

House Bill No. 478

A BILL to amend and re-enact section seventy-six of chapter two of the acts of the legislature of the regular session of one thousand nine hundred and nineteen, relating to the salaries of secretaries of boards of education.

Be it enacted by the Legislature of West Virginia:

That section seventy-six of chapter two of the acts of the legislature of the regular session of one thousand nine hundred and nineteen be amended and re-enacted to read as follows:

Salaries of Secretaries.

Section 76. Secretaries of district boards of education shall
2 receive annually as compensation for their services the following
3 amounts: in districts having fewer than fifteen schools they shall
4 receive fifty dollars; in districts having as many as fifteen but
5 fewer than twenty-five schools they shall receive eighty dollars;
6 in districts having as many as twenty-five but fewer than fifty
7 schools they shall receive one hundred and fifty dollars; and in dis-
8 tricts having fifty or more schools they shall receive one hundred
9 and fifty dollars, and in addition three dollars for each school over
10 fifty.

House Bill No. 480

(BY MR. WYATT.)

[Introduced January 26, 1921; referred to the Committee on Counties, Districts and Municipal Corporations.]

House Bill No. 480

A BILL to fix the salary of the prosecuting attorney of Harrison county.

Be it enacted by the Legislature of West Virginia:

That the county court of Harrison county, West Virginia, shall
2 allow and pay to the prosecuting attorney thereof, out of the treas-
3 ury of said county, an annual salary of not less than four thou-
4 sand dollars per annum, which salary shall be paid monthly in the
5 same manner that the salaries of other county officers are paid.

House Bill No. 375

(By MR. McCLINTIC, of Kanawha.)

[Introduced January 24, 1921; referred to the Committee on Taxation and Finance.]

House Bill No. 375

A BILL providing for the payment to the county commissioners for services performed, other than for services in court, in counties having a population of one hundred thousand or more inhabitants.

Be it enacted by the Legislature of West Virginia:

Section 1. There shall be allowed and paid out of the county treasury as other salaries are paid to each county commissioner in each county, which has now or may have at any decennial census at least the number of one hundred thousand inhabitants, for services performed for such county, concerning roads, bridges and other county business by said commissioners (other than for services in court) the sum of two hundred dollars per month for each month of their terms of service, respectively.

Sec. 2. It shall be the duty of the county commissioners of such county to visit and inspect monthly all road and bridge construction in such county and from time to time visit and inspect all the roads of the county and the county infirmary.

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed.

House Bill No. 430

(By MR. HUGHS.)

[Introduced January 25, 1921; referred to the Committee on the Judiciary.]

House Bill No. 430

A BILL to amend and re-enact section twenty-three, chapter forty-one of code of West Virginia.

Be it enacted by the Legislature of West Virginia:

That section twenty-three chapter forty-one of the code of West Virginia, be amended to read as follows:

Any husband or parent residing in this state, or the widow, 2 or the infant children of deceased parents, may set apart and 3 hold personal property to the value of not exceeding two hundred 4 dollars, to be exempt from execution or other process, except 5 as hereinafter provided. And any mechanic, artisan or laborer 6 residing in this state, whether he be a husband or parent, or not, 7 may hold the working tools of his trade or occupation to the value 8 of fifty dollars, exempt from forced sale or execution. *Provided,* 9 that in no case shall the exemption allowed any one person exceed 10 two hundred dollars. *Provided, further,* that fifteen percent 11 of all earnings, salary and income up to sixty-five dollars per 12 month, and all in excess of sixty-five dollars per month, shall be 13 subject to execution and forced sale, and not subject to exemption, 14 regardless of whether it together with other property does or 15 does not aggregate two hundred dollars. *Provided, further,* that 16 one garnishment or suggestion shall be sufficient to attach all wages 17 salary or income not exempt as above set out, until the debt is 18 satisfied, or the services for which such wages, salary or income 19 may become due, shall be terminated.

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House Bill No. 527

(BY MR. LITTLETON)

[Introduced January 26, 1921; referred to the Committee on the Judiciary.]

House Bill No. 527

A BILL creating the court of industrial relations, defining its powers and duties, and relating thereto, abolishing the public service

commission, repealing all acts and parts of acts in conflict therewith, and providing penalties for the violation of this act.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created a tribunal to be known as the court of industrial relations, which shall be composed of three judges who shall be appointed by the governor, by and with the advice and consent of the senate. Of such three judges first appointed, one shall be appointed for a term of one year, one for a term of two years, and one for a term of three years, said terms to begin simultaneously upon qualification of the persons appointed therefor. Upon the expiration of the term of the three judges first appointed as aforesaid, each succeeding judge shall be appointed and shall hold his office for a term of three years and until his successor shall have been qualified. In case of a vacancy in the office of judge of said court of industrial relations the governor shall appoint his successor to fill the vacancy for the unexpired term. The salary of each of said judges

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shall be six thousand dollars per year, payable monthly. Of the judges first to be appointed, the one appointed for the three-year term shall be the presiding judge, and thereafter the judge whose term of service has been the longest shall be the presiding judge: *provided*, that in case two or more of said judges shall have served the same length of time, the presiding judge shall be designated by the governor.

Sec. 2. The jurisdiction conferred by law upon the public service commission of the state of West Virginia is hereby conferred upon the court of industrial relations, and the said court of industrial relations is hereby given full power, authority and jurisdiction to supervise and control all public utilities and all common carriers as now controlled by the West Virginia public service commission doing business in the state of West Virginia, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction. All laws relating to the powers, authority, jurisdiction and duties of the public service commission of this state are hereby adopted and all powers, authority, jurisdiction and duties by said laws imposed and conferred upon the public service commission of this state relating to common carriers and public utilities are hereby

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15 imposed and conferred upon the court of industrial relations cre-
16 ated under the provisions of this act; and in addition thereto said
17 court of industrial relations shall have such further power, author-
18 ity and jurisdiction and shall perform such further duties as are
19 in this act set forth, and said public service commission is here-
20 by abolished. That all pending actions brought by or against
21 the said public utilities commission of this state shall not be af-
22 fected, but the same may be prosecuted or defended by and in the
23 name of the court of industrial relations. Any investigation, ex-
24 amination, or proceedings had or undertaken, commenced or in-
25 stituted by or pending before said public service commission at
26 the time of the taking effect of this act are transferred to and
27 shall be continued and heard by the said court of industrial
28 relations hereby created, under the same terms and conditions
29 and with like effect as though said public service commission had
30 not been abolished.

Sec. 3. (a) The operation of the following named and in-
2 dicated employments, industries, public utilities and common
3 carriers is hereby determined and declared to be affected with
4 a public interest and therefore subject to supervision by the state
5 as herein provided for the purpose of preserving the public peace,

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6 protecting the public health, preventing industrial strife, dis-
7 order and waste, and securing regular and orderly conduct of
8 the businesses directly affecting the living conditions of the people
9 of this state and in the promotion of the general welfare, to-wit:
10 (1) The manufacture or preparation of food products where-
11 by, in any stage of the process, substances are being converted,
12 either partially or wholly, from their natural state to a condi-
13 tion to be used as food for human beings: (2) the manufacture
14 of clothing and all manner of wearing apparel in common use by
15 the people of this state whereby, in any stage of the process,
16 natural products are being converted, either partially or wholly,
17 from their natural state to a condition to be used as such cloth-
18 ing and wearing apparel; (3) the mining or production of any
19 substance or material in common use as fuel either for domestic,
20 manufacturing, or transportation purposes; (4) the transporta-
21 tion of all food products and articles of substances entering into
22 wearing apparel, or fuel, as aforesaid, from the place where pro-
23 duced to the place of manufacture or consumption.

24 (b) Any person, firm or corporation engaged in any such in-
25 dustry or employment, or in the operation of such public utility
26 or common carrier, within the state of West Virginia, either in
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27 the capacity of owner, officer, or worker, shall be subject to the
28 provisions of this act, except as limited by the provisions of this
29 act.

Sec. 4. Said court of industrial relations shall have its office at
2 the capital of said state and shall keep a record of all its pro-
3 ceedings which shall be a public record and subject to inspection
4 the same as other public records of this state. Said court, in
5 addition to the powers and jurisdiction heretofore conferred upon,
6 and exercised by, the public service commission, is hereby given
7 full power, authority and jurisdiction to supervise, direct and con-
8 trol the operation of the industries, employments, public utilities,
9 and common carriers in all matters herein specified and in the
10 manner provided herein, and to do all things needful for the
11 proper and expeditious enforcement of all the provisions of this
12 act.

Sec. 5. Said court of industrial relations is hereby granted full
2 power to adopt all reasonable and proper rules and regulations to
3 govern its proceedings, the service of process, to administer oaths,
4 and to regulate the mode and manner of all its investigations,
5 inspections and hearings; *provided, however*, that testimony so
6 taken shall in all cases be transcribed by the reporter for said
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7 court of industrial relations in duplicate, one copy of said testi-
8 mony to be filed among the permanent records of said court, and
9 the other to be submitted to the supreme court of appeals in
10 case the matter shall be taken to said supreme court under the
11 provisions of this act.

Sec. 6. It is hereby declared and determined to be necessary
2 for the public peace, health and general welfare of the people of
3 the state that the industries, employments, public utilities and
4 common carriers herein specified shall be operated with reason-
5 able continuity and efficiency in order that the people of this state
6 may live in peace and security, and be supplied with the necessities
7 of life. No person, firm, corporation, or association of persons
8 shall in any manner or to any extent, wilfully hinder, delay,
9 limit or suspend such continuous and efficient operation for the

10 purpose of evading the purpose and intent of the provisions of this
11 act; nor shall any person, firm, corporation, or association of
12 persons do any act or neglect or refuse to perform any duty
13 herein enjoined with the intent to hinder, delay, limit or sus-
14 pend such continuous and efficient operation as aforesaid, except
15 under the terms and conditions provided by this act.

Sec. 7. In case of a controversy arising between employers
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2 and workers, or between groups or crafts of workers, engaged in
3 any of said industries, employments, public utilities, or common
4 carriers, if it shall appear to said court of industrial relations that
5 said controversy may endanger the continuity or efficiency of ser-
6 vice of any of said industries, employments, public utilities or
7 common carriers, or affect the production or transportation of the
8 necessities of life affected or produced by said industries or em-
9 ployments, or produce industrial strife, disorder or waste, or en-
10 danger the orderly operation of such industries, employments,
11 public utilities or common carriers, and thereby endanger the
12 public peace or threaten the public health, full power, authority
13 and jurisdiction are hereby granted to said court of industrial re-
14 lations, upon its own initiative to summon all necessary parties
15 before it and to investigate said controversy, and to make such
16 temporary findings and orders as may be necessary to preserve the
17 public peace and welfare and to preserve and protect the status
18 of the parties, property and public interests involved pending said
19 investigations, and to take evidence and to examine all necessary
20 records, and to investigate conditions surrounding the workers,
21 and to consider the wages paid to labor and the return accruing
22 to capital, and the rights and welfare of the public, and all other

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23 matters affecting the conduct of said industries, employments, pub-
24 lic utilities or common carriers, and to settle and adjust all such
25 controversies by such findings and orders as provided in this act.
26 It is further made the duty of said court of industrial relations,
27 upon complaint of either party to such controversy, or upon com-
28 plaint of any ten citizen taxpayers of the community in which
29 such industries, employments, public utilities or common car-
30 riers are located, or upon the complaint of the attorney-general
31 of the state of West Virginia, if it shall be made to appear to
32 said court that the parties are unable to agree and that such

33 controversy may endanger the continuity or efficiency of service
34 of any of said industries, employments, public utilities or com-
35 mon carriers, or effect the production or transportation of the
36 necessities of life affected or produced by said industries or em-
37 ployments, or produce industrial strife, disorder or waste, or
38 endanger the orderly operation of such industries, employments,
39 public utilities or common carriers, and thereby endanger the
40 public peace or threaten the public health, to proceed and in-
41 vestigate and determine said controversy in the same manner
42 as though upon its own initiative. After the conclusion of any
43 such hearing and investigations, and as expeditiously as possible,
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44 said court of industrial relations shall make and serve upon all
45 interested parties its findings, stating specifically the terms and
46 conditions upon which said industry, employment, utility or com-
47 mon carrier should be thereafter conducted insofar as the mat-
48 ters determined by said court are concerned.

Sec. 8. The court of industrial relations shall order such
2 changes, if any, as are necessary to be made in and about the
3 conduct of said industry, employment, utility or common carrier,
4 in the matters of working and living conditions, hours of labor,
5 rules and practices, and a reasonable minimum wage, or standard
6 of wages, to conform to the findings of the court in such mat-
7 ters, as provided in this act, and such orders shall be served
8 at the same time and in the same manner as provided for the
9 service of the court's findings in this act: *provided*, all such
10 terms, conditions and wages shall be just and reasonable and such
11 as to enable such industries, employments, utilities or common
12 carriers to continue with reasonable efficiency to produce or trans-
13 port their products or continue their operations and thus to pro-
14 mote the general welfare. Service of such order shall be made in
15 the same manner as service of notice of any hearing before said
16 court as provided by this act. Such terms, conditions, rules,

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17 practices, wages, or standard of wages, so fixed and determined
18 by said court and stated in said order shall continue for such
19 reasonable time as may be fixed by said court, or until changed
20 by agreement of the parties with the approval of the court. If
21 either party to such controversy shall in good faith comply with
22 any order of said court of industrial relations for a period of

23 sixty days or more, and shall find said order unjust, unreasonable
24 or impracticable, said party may apply to said court of indus-
25 trial relations for a modification thereof and said court of in-
26 dustrial relations shall hear and determine said application and
27 make findings and orders in like manner and with like effect as
28 originally. In such case the evidence taken and submitted in
29 the original hearing may be considered.

Sec. 9. It is hereby declared necessary for the promotion of
2 the general welfare that workers engaged in any of said indus-
3 tries, employments, utilities or common carriers shall receive at
4 all times a fair wage and have healthful and moral surroundings
5 while engaged in such labor; and that capital invested therein
6 shall receive at all times a fair rate of return to the owners
7 thereof. The right of every person to make his own choice of
8 employment and to make and carry out fair, just and reasonable
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9 contracts and agreements of employment, is hereby recognized.
10 If, during the continuance of any such employment, the terms
11 or conditions of any such contract or agreement hereafter entered
12 into, are by said court, in any action or proceeding properly
13 before it under the provisions of this act, found to be unfair,
14 unjust or unreasonable, said court of industrial relations may
15 by proper order so modify the terms and conditions thereof so
16 that they will be and remain fair, just and reasonable and all
17 such orders shall be enforced as in this act provided.

Sec. 10. Before any hearing, trial or investigation shall be
2 held by said court, such notice as the court shall deem necessary
3 shall be given to all parties interested by registered United States
4 mail addressed to said parties to the post office of the usual place
5 or residence or business of said interested parties when same is
6 known, or by the publication of notice in some newspaper of gen-
7 eral circulation in the county in which said industry or em-
8 ployment, or the principal office of such utility or common carrier
9 is located, and said notice shall fix the time and place of said
10 investigation or hearing. The costs of publication shall be paid
11 by said court out of any funds available therefor. Such notice
12 shall contain the substance of the matter to be investigated, and

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13 shall notify all persons interested in said matter to be present

14 at the time and place named to give such testimony or to take
15 such action as they may deem proper.

Sec. 11. Said court of industrial relations may employ a competent clerk, marshal, shorthand reporter, and such expert accountants, engineers, stenographers, attorneys and other employees as may be necessary to conduct the business of said court; shall provide itself with a proper seal and shall have the power and authority to issue summons and subpoenas and compel the attendance of witnesses and parties and to compel the production of the books, correspondence, files, records, and accounts of any industry, employment, utility or common carrier, or of any person, corporation, association or union of employees affected, and to make any and all investigations necessary to ascertain the truth in regard to said controversy. In case any person shall fail or refuse to obey any summons or subpoena issued by said court after due service then and in that event said court is hereby authorized and empowered to take proper proceedings in any court of competent jurisdiction to compel obedience to such summons or subpoena. Employees of said court whose salaries are

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18 not fixed by law shall be paid such compensation as may be fixed
19 by said court, with the approval of the governor.

Sec. 12. In case of the failure or refusal of either party to said controversy to obey and be governed by the order of said court of industrial relations, then and in that event said court is hereby authorized to bring proper proceedings in the supreme court of appeals of the state of West Virginia to compel compliance with said order; and in case either party to said controversy should feel aggrieved at any order made and entered by said court of industrial relations, such party is hereby authorized and empowered within ten days after service of such order upon it to bring proper proceedings in the supreme court of appeals of the state of West Virginia to compel said court of industrial relations to make an enter a just, reasonable and lawful order in the premises. In case of such proceedings in the supreme court by either party, the evidence produced before said court of industrial relations may be considered by said supreme court, but said supreme court, if it deem further evidence necessary to enable it to render a just and proper judgment, may admit such additional evidence in open court or order it taken and

19 transcribed by a master or commissioner. In case any contro-
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20 versy shall be taken by either party to the supreme court of
21 the state of West Virginia under the provisions of this act, said
22 proceeding shall take precedence over other civil cases before said
23 court, and a hearing and determination of the same shall be by
24 said court expedited as fully as may be possible consistent with a
25 careful and thorough trial and consideration of said matter.

Sec. 13. No action or proceeding in law or equity shall be
2 brought by any person, firm or corporation to vacate, set aside, or
3 suspend any order made and served as provided in this act, un-
4 less such act on proceeding shall be commenced within thirty
5 days from the time of the service of such order.

Sec. 14. Any union or association of workers engaged in
2 the operation of such industries, employments, public utilities or
3 common carriers, which shall incorporate under the laws of
4 this state shall be by said court of industrial relations considered
5 and recognized in all its proceedings as a legal entity and may
6 appear before said court of industrial relations through and by
7 its proper officers, attorneys or other representatives. The right
8 of such corporations, and of such unincorporated unions or asso-
9 ciations of workers, to bargain collectively for their members is
10 hereby recognized; *provided*, that the individual members of such
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11 unincorporated unions or associations, who shall desire to avail
12 themselves of such right of collective bargaining, shall appoint in
13 writing some officer or officers of such union or association, or
14 some other person or persons as their agents or trustees with
15 authority to enter into such collective bargains and to represent
16 each and every of said individuals in all matters relating thereto.
17 Such written appointment of agents or trustees shall be made a
18 permanent record of such union or association. All such collec-
19 tive bargains, contracts, or agreements shall be subject to the pro-
20 visions of section nine of this act.

Sec. 15. It shall be unlawful for any person, firm or corpo-
2 ration to discharge any employee or to discriminate in any way
3 against any employee because of the fact that any such employee
4 may testify as a witness before the court of industrial relations,
5 or shall sign any complaint or shall be in any way instrumental
6 in bringing to the attention of the court of industrial relations

7 any matter of controversy between employers and employees as
8 provided herein. It shall also be unlawful for any two or more
9 persons, by conspiring or confederating together, to injure in
10 any manner any other person or persons, or any corporation,
11 in his, their, or its business, labor, enterprise, or peace and se-
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12 curity, by boycott, by discrimination, by picketing, by advertia-
13 ing, by propaganda, or other means, because of any action taken
14 by an such person or persons, or any corporation, under any
15 order of said court, or because of any action or proceeding in-
16 stituted in said court, or because any such person or persons,
17 or corporation, shall have invoked the jurisdiction of said court
18 in any matter provided for herein.

Sec. 16. It shall be unlawful for any person, firm, or corpo-
2 ration engaged in the operation of any such industry, employ-
3 ment, utility, or common carrier wilfully to limit or cease opera-
4 tions for the purpose of limiting production or transportation or
5 to affect prices, for the purpose of avoiding any of the provisions
6 of this act; but any person, firm or corporation so engaged may
7 apply to said court of industrial relations for authority to limit
8 or cease operations, stating the reasons therefor, and said court
9 of industrial relations shall hear said application promptly, and
10 if said application shall be found to be in good faith and meritor-
11 ious, authority to limit or cease operations shall be granted by
12 order of said court. In all such industries, employments, utilities
13 or common carriers in which operation may be ordinarily affected
14 by changes in season, market conditions, or other reasons or
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15 causes inherent in the nature of the business, said court of in-
16 dustrial relations may, upon application and after notice to all
17 interested parties and investigation, as herein provided, make or-
18 ders fixing rules, regulations and practices to govern the operation
19 of such industries, employments, utilities or common carriers
20 for the purpose of securing the best service to the public con-
21 sistent with the rights of employers and employees engaged in
22 the operation of such industries, employments, utilities or com-
23 mon carriers.

Sec. 17. It shall be unlawful for any person, firm, or corpora-
2 tion, or for any association of persons, to do or perform any act
3 forbidden, or to fail or refuse to perform any act or duty en-

4 joined by the provisions of this act, or to conspire or confederate
5 with others to do or perform any act forbidden, or to fail or
6 refuse to perform any act or duty enjoined by the provisions of
7 this act, or to induce or intimidate any person, firm or corporation
8 engaged in any of said industries, employments, utilities or com-
9 mon carriers to do any act forbidden, or to fail or refuse to
10 perform any act or duty enjoined by the provisions of this act
11 for the purpose or with the intent to hinder, delay, limit, or
12 suspend the operation of any of the industries, employments,

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13 utilities or common carriers herein specified or indicated, or to
14 delay, limit or suspend the productoin or transportation of the
15 products of such industries, or employments, or the service of
16 such utilities or common carriers: *provided*, that nothing in this
17 act shall be construed as restricting the right of any individual
18 employee engaged in the operation of any such industry, employ-
19 ment, public utility, or common carrier to quit his employment
20 at any time, but it shall be unlawful for any such individual em-
21 ployee or other person to conspire with other persons to quit
22 their employment or to induce other persons to quit their employ-
23 ment for the purpose of hindering, delaying, interfering with,
24 or suspending the operation of any of the industries, employ-
25 ments, public utilities, or common carriers governed by the provi-
26 sions of this act, or for any person to engage in what is known
27 as "picketing," or to intimidate by threats, abuse, or in any other
28 manner, any person or persons with intent to induce such person
29 or persons to quit such employment, or for the purpose of de-
30 terring or preventing any other person or persons from accepting
31 employment or from remaining in the employ of any of the in-
32 dustries, employments, public utilities, or common carriers gov-
33 erned by the provisions of this act.

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Sec. 18. Any person wilfully violating the provisions of this
2 act, or any valid order of said court of industrial relations, shall
3 be deemed guilty of a misdemeanor, and upon conviction there-
4 of in any court of competent jurisdiction of this state shall be
5 punished by a fine of not to exceed one thousand dollars, or
6 by imprisonment in the county jail for a period of not to ex-
7 ceed one year, or by both such fine and imprisonment.

Sec. 19. Any officer of any corporation engaged in any of the
2 industries, employments, utilities or common carriers herein
3 named and specified, or any officer of any labor union or associa-
4 tion of persons engaged as workers in any such industry, em-
5 ployment, utility or common carrier, or any employment of labor,
6 coming within the provisions of this act, who shall wilfully use
7 the power, authority or influence incident to his official position,
8 or to his position as an employer of others, and by such means
9 shall intentionally influence, impel, or compel any other per-
10 son to violate any of the provisions of this act, or any valid
11 order of said court of industrial relations, shall be deemed guilty
12 of a felony and upon conviction thereof in any court of competent
13 jurisdiction shall be punished by a fine not to exceed five
14 thousand dollars, or by imprisonment in the state penitentiary at
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15 hard labor for a term not to exceed two years, or both such fine
16 and imprisonment.

Sec. 20. In case of the suspension, limitation or cessation of
2 the operation of any of the industries, employments, public utili-
3 ties or common carriers affected by this act, contrary to the pro-
4 visions hereof, or to the orders of said court made hereunder, if
5 it shall appear to said court that such suspension, limitation, or
6 cessation shall seriously affect the public welfare by endangering
7 the public peace, or threatening the public health, then said court
8 is hereby authorized, empowered and directed to take proper pro-
9 ceedings in any court of competent jurisdiction of this state to
10 take over, control, direct and operate said industry, employ-
11 ment, public utility or common carrier during such emergency:
12 *provided*, that a fair return and compensation shall be paid to
13 the owners of such industry, employment, public utility or com-
14 mon carrier, and also a fair wage to the workers engaged there-
15 in, during the time of such operation under the provisions of this
16 section.

Sec. 21. When any controversy shall arise between employer
2 and employee as to wages, hours of employment, or working or
3 living conditions, in any industry not hereinbefore specified in
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4 parties to such controversy may, by mutual agreement, and with
5 the consent of the court, refer the same to the court of indus-
6 trial relations for its findings and orders. Such agreement of

7 reference shall be in writing, signed by the parties thereto;
8 whereupon said court shall proceed to investigate, hear, and de-
9 termine said controversy as in other cases, and in such case the
10 findings and orders of the court of industrial relations as to said
11 controversy shall have the same force and effect as though made
12 in any essential industry as herein provided.

Sec. 22. Whenever deemed necessary by the court of indus-
2 trial relations, the court may appoint such person, or persons,
3 having a technical knowledge of bookkeeping, engineering or
4 other technical subjects involved in any inquiry in which the
5 court is engaged, as a commissioner for the purpose of taking
6 evidence with relation to such subject. Such commissioner when
7 appointed shall take an oath to well and faithfully perform the
8 duties imposed upon him, and shall thereafter have the same
9 power to administer oaths, compel the production of evidence,
10 and the attendance of witnesss as the said court would have if
11 sitting in the same matter. Said commissioner shall receive

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12 such compensation as may be provided by law or by the order
13 of said court, to be approved by the governor.

Sec. 23. Any order made by said court of industrial relations
2 as to minimum wage or a standard of wages shall be deemed
3 as *prima facie* reasonable and just, and if said minimum wage
4 or standard of wages shall be in excess of the wages theretofore
5 paid in the industry, employment, utility or common carrier, then
6 and in that event the workers affected thereby shall be entitled
7 to receive said minimum wage or standard of wages from the date
8 of the service of summons or publication of notice instituting
9 said investigation, and shall have the right individually, or in
10 case of incorporated unions or associations, or unincorporated
11 unions or associations entitled thereto, collectively, to recover in
12 any court of competent jurisdiction the difference between the
13 wages actually paid and said minimum wage or standard of
14 wages so found and determined by said court in such order.. It
15 shall be the duty of all employers affected by the provisions of
16 this act, during the pendency of any investigation brought under
17 this act, or any litigation resulting therefrom, to keep an accu-
18 rate account of all wages paid to all workers interested in said
19 investigation or proceeding: *provided*, that in case said order shall
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20 fix a wage or standard of wages which is lower than the wages
21 theretofore paid in the industry, employment, utility or common
22 carrier affected, then and in that event the employers shall have
23 the same right to recover in the same manner as provided in
24 this section with reference to the workers.

Sec. 24. With the consent of the governor, the judges of said
2 court of industrial relations are hereby authorized and empowered
3 to make, or cause to be made, within this state or elsewhere, such
4 investigations and inquiries as to industrial conditions and rela-
5 tions as may be profitable or necessary for the purpose of fa-
6 miliarizing themselves with industrial problems such as may arise
7 under the provisions of this act. All the expenses incurred in
8 the performance of their official duties by the individual mem-
9 bers of said court and by the employees and officers of said
10 court, shall be paid by the state out of funds appropriated there-
11 for by the legislature, but all warrants covering such expenses
12 shall be approved by the governor of said state.

Sec. 25. The rights and remedies given and provided by this
2 act shall be construed to be cumulative of all other laws in force
3 in said state relating to the same matters, and this act shall not
4 be interpreted as a repeal of any other act now existing in said

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5 state with reference to the same matters referred to in this act,
6 except where the same may be inconsistent with the provisions of
7 this act.

Sec. 26. The provisions of this act and all grants of power,
2 authority and jurisdiction herein made to said court of indus-
3 trial relations shall be liberally construed and all incidental pow-
4 ers necessary to carry into effect the provisions of this act are
5 hereby expressly granted to and conferred upon said court of in-
6 dustrial relations.

Sec. 27. Annually and on or before January first of each year,
2 said court of industrial relations shall formulate and make a re-
3 port of all its acts and proceedings, including a financial state-
4 ment of expenses, and shall submit the same to the governor of
5 this state for his information. All expenses incident to the
6 conduct of the business of said court of industrial relations shall
7 be paid by the said court on warrants signed by its presiding
8 judge and clerk, and countersigned by the governor and shall be
9 paid out of funds appropriated therefor by the legislature. The

10 said court of industrial relations shall, on or before the convening
11 of the legislature, make a detailed estimate of the probable ex-
12 penses of conducting its business and proceedings for the ensu-
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13 ing two years, and attach thereto a copy of the reports furnished
14 the governor, all of which shall be submitted to the governor of
15 this state and by him submitted to the legislature.

Sec. 28 If any section or provision of this act shall be found
2 invalid by any court, it shall be conclusively presumed that this
3 act would have been passed by the legislature without such in-
4 valid section or provision, and the act as a whole shall not be
5 declared invalid by reason of the fact that one or more sections
6 or provisions may be found to be invalid by any court.

Sec. 29. All acts and parts of acts in conflict herewith are
2 hereby repealed.

House Bill No. 510

(By MR. CAPEHART.)

[Introduced January 26, 1921; referred to the Committee on Edu-
cation.]

House Bill No. 510

A BILL to amend section five of chapter seventeen of the acts of the
legislature of one thousand nine hundred and nineteen in refer-
ence to fees of issuing officers under the child labor law.

Be it enacted by the Legislature of West Virginia:

That section five of chapter seventeen of the acts of the legislature
of one thousand nine hundred and nineteen be amended as follows:

Section 5-a. That the issuing officer whose duty it is to issue
2 work permits, and age certificates, shall for each age certificate
3 written for a minor of sixteen years of age or over, be entitled
4 to a fee not to exceed fifty cents, the same to be paid by the em-
5 ployer making application for such certificate.

House Bill No. 505

(BY MR. MCCLINTIC, of Kanawha.)

[Introduced January 26, 1921; referred to the Committee on the Judiciary.]

House Bill No. 505

A BILL to amend chapter fifty-three of the acts of the regular session of the legislature of one thousand nine hundred and nineteen, relating to weights and measures, by adding section twenty-seven-a, thereto.

Be it enacted by the Legislature of West Virginia:

That chapter fifty-three of the acts of the regular session of the legislature of one thousand nine hundred and nineteen, relating to weights and measures, be amended, by adding section twenty-seven-a thereto, to read as follows:

“All loaves of bread, sold or offered for sale in this state by
2 the baker or manufacturer thereof, or any other person, firm or
3 corporation, shall be of the following weights, which shall be net
4 weights, avoirdupois, twelve hours after baking:

5 One pound,

6 One and one-half pounds,

7 Two pounds,

8 Two and one-half pounds,

9 And in multiples of one-half pounds.

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10 Variations at the rate of one ounce over, and one ounce under,
11 the above specified unit weights, are permitted in individual loaves
12 but the average weight of not less than twenty-five loaves of any
13 one unit of any one kind, shall be not less or more, than the weight
14 prescribed herein, for such unit.

15 Twin or multiple loaves may be sold only upon the following
16 conditions: That each loaf of the multiple loaf shall weigh at
17 least sixteen ounces.

18 This act shall take effect in thirty days from passage.

House Bill No. 449

(BY MR. CAPEHART.)

[Introduced January 25, 1921; referred to the Committee on Education.]

House Bill No. 449

A BILL to amend and re-enact section seven of chapter forty-five of the code of West Virginia, being chapter two of the acts of one thousand nine hundred and nineteen, regular session providing for the granting of leave of absence to instructors in the state schools under the control of the state board of education.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter forty-five of the code of West Virginia, being chapter two of the acts of one thousand nine hundred and nineteen, be amended and re-enacted so as to read as follows:

On and after the first day of July, one thousand nine hundred 2 and nineteen, the state board of education created in section four 3 of this act shall have general control and management of educational affairs of the West Virginia university, the state normal 4 schools, the West Virginia trades schools, the West Virginia vocational school, the West Virginia collegiate institute, the Bluefield 5 colored institute, the West Virginia schools for the deaf and the 6 blind, and any other state educational institution which may here- 7 after be created by law; and the statutory provisions applicable 8 to the government and maintenance of the schools or institutions 9 named in this section shall continue in full force ex-

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12 cept as may be provided otherwise by this act or by succeeding 13 acts of the legislature. Said board shall exercise such authority 14 and perform such duties as may have been delegated heretofore 15 to the state board of regents to the state board of education as 16 now constituted, to the state school book commission, and to the 17 state vocational board, subject however to the provisions of this 18 act and of the succeeding acts of the legislature. The state board 19 of education shall employ the president or principal and the pro-

20 fessors, teachers and other employees of each of the institutions
21 named in this section, and shall fix the yearly or monthly salary
22 to be paid each person so employed, to be approved by state board
23 of control according to law.

24 Said state board of Education may grant leave of absence, for
25 further study with full pay, to any teacher of the institutions
26 named above or in any other state educational institution of
27 equivalent rank which may hereafter be created by law for one
28 semester for five years' service and two consecutive semesters
29 for ten years' service and for each sabbatical year thereafter upon
30 recommendation thereafter by the principal or president and deans
31 of said institutions, provided the teacher agrees to return to the
32 institution from which leave of absence is granted and works

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33 the academic year following such leave, *provided further* that if
34 a teacher on leave of absence return to the institution from which
35 leave was granted for the semester or year following leave he shall
36 be paid, by warrant on the auditor of the state, countersigned
37 by the state superintendent of schools and treasurer of the state
38 board of control certified to by head of the institution, in such
39 installments as the salary is usually paid, *provided, however*, that
40 the first installment of leave salary shall be paid with the second
41 installment of the regular year's pay and all other subsequent in-
42 stallments shall be paid in like manner.

House Bill No. 496

(BY MR. CRUMP.)

[Introduced January 26, 1921; referred to the Committee on Immigration and Agriculture.]

House Bill No. 496

Be it enacted by the Legislature of West Virginia:

That county courts are hereby required to employ county agricultural agents for their respective counties and empowering said courts to lay sufficient levy for the payment of said agents.

House Bill No. 271

(BY MR. CAPEHART.)

[Introduced January 21, 1921; referred to the Committee on the Judiciary.]

House Bill No. 271

A BILL to amend and re-enact sections one hundred and twenty-two, one hundred and twenty-three, one hundred and twenty-four, one hundred and twenty-five, one hundred and twenty-six, one hundred and twenty-seven, one hundred and twenty-eight and one hundred and twenty-nine, chapter forty-five of the code of West Virginia, as last amended and re-enacted by acts of the legislature of one thousand nine hundred and nineteen.

Be it enacted by the Legislature of West Virginia:

Age—Time—Misdemeanor.

Section 122. Every person who has legal or actual charge of
2 a child or children not less than seven nor more than sixteen years
3 of age shall cause such child or children each year to attend a free
4 day school for the full school term of the district or independent
5 district in which such person resides. *provided, however,* that such
6 person shall be exempt from the foregoing requirements for any
7 of the following causes:

8 (a) Instruction for a time equal to that required by this act in a
9 private, parochial or other school approved by the district board of
10 education. The principal or other person in control of such

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11 private, parochial or other approved school shall upon the request
12 of the district board of education, furnish to said board such in-
13 formation as it may require with regard to the attendance and in-
14 struction of pupils between the ages of seven and sixteen years
15 enrolled therein.

16 (b) Instruction for a time equal to that required by this act
17 in the home of such child or children or elsewhere by a person or
18 persons who are, in the judgment of that district board of educa-
19 tion, qualified to give instruction in the subjects required to be
20 taught in the free elementary schools of this state. The per-
21 son or persons giving such instruction shall, upon the request of
22 the district board of education, furnish to said board such infor-
23 mation as it may require with regard to the attendance and in-

24 struction of pupils between the ages of seven and sixteen years
25 receiving such instruction.

26 (c) Physical or mental incapacity for school attendance and
26-a the performance of school work.

27 (d) Death or serious illness in the immediate family of the
28 pupil.

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29 (e) Extreme destitution of parents or other person or persons
30 in legal actual charge of a child or children. Exemption for this
31 charge shall not be allowed when such destitution is relieved
32 through public or private means.

33 (f) Conditions rendering school attendance impossible or ren-
34 dering it hazardous to the pupil's life, health or safety.

35 (g) Residence of the pupil at a distance of more than two
36 miles from the nearest school by the shortest practicable road or
37 path, unless free transportation to and from school is provided
38 for such pupil.

39 (h) Observance of regular ordinances.

40 (i) Other causes that are accepted as valid by the county
41 superintendent or by the district supervisor of schools or by the
42 superintendent of schools of an independent district.

43 Any person, who after due notice has been served upon him
44 as hereinafter provided, shall fail to cause a child or children in
45 his legal or actual charge to attend school as hereinbefore pro-
46 vided, shall be guilty of a misdemeanor and shall, upon conviction
47 thereof before any justice of the peace be fined not less than three
48 dollars nor more than twenty dollars, together with the costs of
49 prosecution, or confined in jail not less than five days nor more

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50 than twenty days. Each day a child is out of school contrary to
51 the provisions of this act shall constitute a separate offense.

52 Whenever a person accused of violating the provisions of this
53 act has been tried and acquitted, the costs of prosecution shall be
54 paid by the district board of education out of the building fund
55 of the district.

Attendance Officer—Duties.

123. The board of education of every district or independent
2 district shall, at its first meeting or as soon thereafter as practi-
3 cable, appoint one or more attendance officers, who shall qualify
4 as such and shall enforce the provisions of this act in the dis-

5 tricts or independent districts in which they have been appointed
6 to serve; *provided, however*, that any school trustee may be ap-
7 pointed to serve as truant officer in his sub-district. Each officer
8 so appointed shall use due diligence to ascertain any violations of
9 this law, and when from personal knowledge or by report of com-
10 plaint from any resident or teacher of the district under his super-
11 vision, he believes that any child subject to the provisions hereof
12 has been absent from school contrary to the provisions of this
13 act, he shall immediately give written notice to the parent, guard-
14 ian, or custodian of such child that the attendance of said child
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15 at school is required, and if the parent, guardian or custodian of
16 such child does not comply with the provisions of this act at
17 once, then such attendance officer shall make complaint against
18 such parent, guardian or custodian before a justice of the peace
19 of the county; and, *provided*, that for subsequent offenses in any
20 school year no such notice shall be required. When any doubt
21 exists as to the age of a child absent from school, the attendance
22 officer shall have authority to require a properly attested birth
23 certificate or an affidavit from the parent, guardian or custodian
24 of such child, stating the age of such child. The attendance
25 officer shall, in the performance of his duties as such officer, have
26 authority to visit and enter any office, factory, or business house
27 employing children; he shall also have authority to arrest without
28 warrant any child absent from school in violation of the pro-
29 visions of this act and to place such child in the school in which
30 such child is or should be enrolled. Said attendance officer shall
31 be paid monthly such rate per diem for the time actually spent
32 in the performance of his duties as the board shall determine; but
33 in no case shall payment for any month's services be made until
34 the attendance officer has filed with the secretary of the district
35 board of education the statement required by said board of edu-

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36 cation, together with a sworn statement of the number of truancy
37 cases investigated and the time actually spent in performing
38 such duties. When the attendance officer has faithfully performed
39 his duties and filed the statement required, the district board of
40 education, if satisfied that the same is just and correct, shall issue
41 to him an order on the sheriff for the amount of his account, pay-
42 able out of the building fund of the district.

Secretary to Furnish Enumeration List.

Sec. 124. It shall be the duty of the secretary of the district board of education at the beginning of the school term to furnish to the teacher of each one-room school in the district a copy of the last school enumeration for the sub-district, together with the name and address of the attendance officer of the district. Such teacher shall at the opening of school and at such times as the district board of education may require, compare said enumeration list with the enrollment of the school and report to the attendance officer the names and residences of parents, guardians or custodians of children between the ages of seven and sixteen years who are or have been absent from school without a legal excuse; also, the names and residences of parents, guardians, or custodians of children of compulsory school age not included in H. B. No. 271]

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such enumeration list who are, or have been absent from school without legal excuse. The secretary of the district board of education shall furnish said enumeration list, together with the name and address of the attendance officer, to the superintendents, district supervisors or principals of all town and city schools and to the principals of all district schools of two or more rooms, and said superintendents, district supervisors, and principals shall make reports to the attendance officer concerning all cases of truancy as hereinbefore required of teachers of one-room schools.

Fine for Neglect of Duty.

Sec. 125. Any school officer, attendance officer, district supervisor, superintendent, principal, teacher or other person upon whom a duty is imposed by this act who neglects or refuses to perform any duty or duties so imposed upon him shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than three dollars nor more than twenty dollars and may be imprisoned not to exceed twenty-five days.

Aiding or Abetting Violations of Compulsory Attendance.

Sec. 126. Any person who induces or attempts to induce any child unlawfully to absent himself from school or who harbors or employs any child of compulsory school age while the school which he is required to attend is in session, or employs such child within the term of said school, without the written permission of the

6 county, district or city superintendent of schools shall be guilty of
7 a misdemeanor, and upon conviction thereof shall be punished by
8 a fine of not less than twenty-five dollars nor more than fifty dol-
9 lars, or may be confined in jail not less than five days nor more
10 than thirty days.

Fines Collected.

Sec. 127. All fines collected under the provisions of this act
2 shall be paid over at once by the justice to the sheriff, and by
3 him credited to the building fund of the proper district; and
4 every attendance officer shall make to the secretary of the district
5 board of education and to the sheriff an itemized statement on the
6 last day of each month of all fines imposed as provided herein.

*Unemployed Children over Sixteen and Under Eighteen Shall Attend
School.*

Sec. 128. Every child over sixteen and under eighteen years of
2 age who is not engaged in some regular employment or business
3 for at least six hours per day or who has not received written per-
4 mission from the superintendent of schools of the city or county
5 in which he resides, to engage in profitable employment at home,
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6 shall attend a public school, day school or other school approved by
7 the board of education of his school district or independent school
8 district during the entire time the public schools are in session,
9 subject to such exemptions as are provided for in section one
10 hundred twenty-five (*refers to section one hundred and twenty-
11 two) of this act, except that no child over sixteen and under
12 eighteen years of age shall be exempt from school attendance as
13 herein required for the reason that he has completed an eight-
14 year course of study in the elementary and grammar schools or
15 junior high schools of the state, if a high school or other school
16 of advanced grades is provided within two miles of his home.

*Children Over Sixteen and Under Eighteen Who Are Employed Shall
Attend Evening or Part-Time Day Schools.*

Sec. 129. Every child over sixteen and under eighteen years
2 of age who is engaged in regular employment or business for six
3 or more hours during the day shall attend an evening school, part-
4 time day school or other continuation school for at least five
5 hours per week for a period of twenty weeks, or for such period
6 as such school is in session. if it is in session less than twenty
7 weeks; provided, there is an evening school, part-time day school

8 or other continuation school approved by the board of education
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 9 of the district in which such child resides, within two miles of
 10 such child's home or temporary place of residence. Individuals,
 11 firms and corporations employing children over sixteen and under
 12 eighteen years of age shall, if necessary to enable such children
 13 to attend an evening school, part-time day school or other continu-
 14 ation school as herein required, release such children from work for
 15 at least five hours per week for a period of not less than twenty
 16 weeks each year. All children over sixteen and under eighteen
 17 years of age shall be included as a separate class in the enumer-
 18 ation list required by section ninety-five of this act. The require-
 19 ments of this section shall be enforced by the persons and in the
 20 manner prescribed for the enforcement of the requirements of sec-
 21 tion one hundred twenty-five to one hundred thirty-one, inclusive
 22 of this act.

House Bill No. 469

(By MR. HALL, of Wetzel)

[Introduced January 26, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 469

A BILL to amend and re-enact section six of chapter sixty-three of
 the acts of the legislature of one thousand nine hundred and
 seventeen, relating to probation officers.

Be it enacted by the Legislature of West Virginia:

That section six of chapter sixty-three of the acts of the legislature
 of one thousand nine hundred and seventeen, be amended and re-
 enacted so as to read as follows:

Section 6. The circuit courts and other inferior courts of
 2 the several counties in this state which have chancery juris-
 3 diction shall have authority to appoint any number of discreet
 4 persons of good moral character to serve as probation officers
 5 during the pleasure of the court; said probation officers to re-

6 ceive no compensation from the county treasury except as here-
7 in provided. It shall be the duty of the clerk of the court, if
8 practicable, to notify the said probation officer when any child
9 is to be brought before the court, or judge, and it shall be the
10 duty of such probation officer to make investigation of such case,
11 to be present in court or before said judge to represent the in-
12 terests of the child when the case is heard, to furnish such in-

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13 formation and assistance as the court or judge may require, and
14 to take charge of any child before and after the trial as may be
15 directed by the court or judge. The number of probation offi-
16 cers who may receive compensation from the county, named and
17 designated by the court, shall be as follows:

18 In counties having a population of over thirty thousand, two
19 probation officers may be appointed, who shall each receive a sal-
20 ary of not exceeding six hundred dollars per year, and expenses
21 may be allowed each probation officer in a sum not exceeding
22 one hundred dollars per year; in counties having a population
23 of over fifteen thousand and less than thirty thousand, one
24 probation officer may be appointed at a salary not to exceed six
25 hundred dollars per year, and expenses of probation work may
26 be allowed by the county in a sum not to exceed one hundred
27 dollars per year.

28 In all counties of over fifteen thousand population probation
29 officers receiving compensation from the county, may be ap-
30 pointed by the judge of the circuit court, or other court having
31 jurisdiction, and the said salary or expenses shall be paid in
32 monthly installments from the county treasury. In any county
33 of less than fifteen thousand population, one probation officer,
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34 at a salary of not to exceed three hundred dollars per annum,
35 to be paid as provided for probation officers in other counties,
36 may be appointed by the circuit judge of inferior courts having
37 jurisdiction whenever in the opinion of the judge, the county
38 superintendent of schools and a majority of the board of county
39 commissioners of such county it shall be necessary so to care
40 for the dependent and delinquent children of the county. The
41 county superintendent of schools and the county commissioner
42 in their respective counties shall constitute a board to investigate
43 the competency of any person appointed to act as a probation

44 officer whenever such probation officer is to receive from the
45 county a salary or other compensation provided for under this
46 act. Any judge appointing such probation officer shall trans-
47 mit such appointment to such board of the county in which
48 such appointment is made, and it shall be the duty of a ma-
49 jority of said board to approve or disapprove of such appointee,
50 within thirty days after submission thereof by the said judge,
51 and a failure to act thereon within such time shall constitute
52 an approval of such appointment; if a majority of such board
53 are of the opinion that such appointee does not possess the
54 qualifications of a probation officer, they shall notify the judge

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55 of their conclusions within thirty days from the submission of
56 such appointments to the respective members thereof, where-
57 upon it shall be the duty of the judge to withdraw such appoint-
58 ment and appoint some one who shall receive the approval of
59 said board. The court or judge having jurisdiction may ap-
60 portion the allowance to probation officers between any two or
61 more of them, but not exceeding the total amount fixed herein
62 as may be deemed best.

63 The clerk of the circuit court of each county shall be *ex-*
64 *officio* a probation officer, and in addition to having and exer-
65 cising the powers conferred upon other probation officers by the
66 provisions of this act, shall in all cases touching upon, or concern-
67 ing delinquent, dependent or incorrigible children, or in non-sup-
68 port cases, have authority to issue warrants, and in the absence
69 or incapacity of the judge of the circuit court, hold preliminary
70 hearings, set cases for trial, fix the amount of recognizances,
71 and do whatever is necessary to be done pending a hearing or
72 trial of the case by the judge. For his services a probation
73 officer, said circuit clerk, in addition to all other emoluments
74 allowed him by law shall be entitled to and receive compensa-
75 tion on the following basis: In counties whose population is
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76 less than fifteen thousand, said clerk shall receive two hundred
77 dollars per annum; in counties whose population is more than
78 fifteen thousand and does not exceed thirty thousand, he shall
79 receive three hundred dollars per annum; in counties whose
80 population is more than thirty thousand and does not exceed
81 fifty thousand, he shall receive four hundred dollars per an-

82 num; and in counties whose population exceeds fifty thousand,
83 he shall receive five hundred dollars per annum.

84 Probation officers receiving a salary or other compensation
85 from the county, provided for by this act, are hereby vested
86 with all the powers and authority of police or sheriffs to make
87 arrests and perform any other duties ordinarily required by
88 policemen and sheriffs which may be incident to their office or
89 necessary or convenient to the performance of the duties; *pro-*
90 *vided*, that other probation officers may be vested with like power
91 and authority upon a written certificate from the judge that
92 they are persons of discretion and good character, and that it
93 is the desire of the court to vest them with all the power and
94 authority conferred by law upon probation officers receiving
95 compensation from the county.

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96 In counties of over thirty thousand population, whenever in
97 the superintendent of schools, additional probation officers to
98 the superintendent of schools, additional probation officers to
99 those allowed by law are necessary for the care of the dependent
100 and delinquent children, not to exceed two assistant probation
101 officers, in addition to the one provided for herein, may be ap-
102 pointed in the manner provided by this act, at a salary not to
103 exceed six hundred dollars per year.

104 Salaries or compensation of paid probation officers other than
105 clerks of circuit courts, permitted by this act shall be fixed by
106 the judge, not to exceed the sums herein mentioned, and any
107 bills for expenses not exceeding the sums herein provided for,
108 shall be certified to by the judge as being necessary in and about
109 the performance of the duties of probation officer or officers.
110 The appointment of probation officers and the approval thereof
111 as to the qualifications of such officers by the board herein
112 designated, shall be filed in the office of the clerk of the court.
113 Probation officers shall take oath such as may be required of
114 other county officers to perform their duties and file it in the
115 office of the clerk of the court, by which they have been ap-
116 pointed.

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117 Nothing herein contained, however, shall be held to limit or
118 abridge the power of the judge to appoint any number of per-

119 sons as probation officers, whom said judge may see fit to ap-
120 point and who may be willing to serve without pay from the
121 county for such services as probation officers.

House Bill No. 454

(BY MR. HAYMOND.)

[Introduced January 25, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 454

A BILL to regulate the business of loaning money in sums of three
hundred dollars or less, either with or without security, to indi-
viduals pressed by lack of funds to meet immediate necessities;
fixing the rates of interest and charges therefor; requiring the
licensing of lenders; and prescribing penalties for the violation
of this act.

Be it enacted by the Legislature of West Virginia:

Section 1. That on and after passage of this act, it shall be
lawful for any person, persons, partnership, association, or cor-
poration within the state of West Virginia, who shall comply with
the requirements of this act, to loan money in sums of three hun-
dred dollars or less, either with or without security, to individuals
pressed by lack of funds to meet immediate necessities, and charge
and collect for the loan thereof interest and fees as hereinafter
provided, under the following conditions:

(a) Any person or persons, firm, corporation or association, ap-
plying for the same under oath and in the form prescribed by the
banking commissioner, and paying the sum of fifty dollars, may, in
the discretion of the banking commissioner, except as hereinafter

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provided, obtain a license for carrying on the said business. The
said license shall be issued by the banking commissioner, and shall
expire the first day of June next following the date of its issuance
but no abatement of said charge shall be made if licenses are is-
sued for less than one year. Every such license shall be renewed

18 annually on the first day of June in each year. No license shall
19 be granted to any corporation, unless and until such corporation
20 shall, in writing and in due form, to be first approved by and filed
21 by the banking commissioner, appoint an agent, whom all judicial
22 and other process or legal notice directed to such corporation may
23 be served; and, in the case of the death, removal from the state,
24 or any legal disability or disqualification of any such agent ser-
25 vice of such process or notice may be made upon the banking
26 commissioner. The said commissioner, shall have the power to
27 reject any application for license if he is satisfied that the charac-
28 ter and general fitness of the applicant or applicants is not such
29 as to command the confidence of the community and to warrant
30 the conclusion that the business will be honestly transacted in ac-
31 cordance with the intent and purpose of this act. The said com-
32 missioner may revoke any license if the licensee shall violate any
33 of the provisions of this act. Whenever such license is revoked.

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34 said commissioner shall not issue another to said licensee until
35 the expiration of at least one year from the date of revocation
36 of such license, and, not at all, if such licenses shall have been
37 convicted of a violation of this act, under the provisions of sec-
38 tion six thereof. In addition to said license fee, said licensee
39 shall pay for the examination by said banking commissioner, as
40 hereinafter provided. Every such applicant shall execute and file
41 a bond to the commonwealth of West Virginia, in the penal sum of
42 five thousand dollars, with the banking commissioner, to be ap-
43 proved by him, for the faithful observance of all laws relating to
44 such business. Said bond shall be executed by a surety company
45 authorized by the laws of West Virginia to transact business within
46 the commonwealth, and such bond shall be renewed and refilled
47 annually not later than the first day of June in each year.

48 (b) The license shall state fully the name or names of the
49 person or corporation, and of every member of the firm or associa-
50 tion, authorized to do business thereunder, and the location of the
51 office or place of business in which the business is to be conducted;
52 and, in the case of a corporation, shall also state the date and place
53 of its incorporation, the names of its directors for the period for
54 which the license is issued, and the name and address of the agent

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55 as provided in section one of this act. Such license shall be kept

56 posted in a conspicuous place in the office where the business is
57 transacted. No person, persons, firm, corporation, or association
58 so licensed shall transact or solicit business under any other name,
59 or at any other office or place of business, than that named in the
60 license. Not more than one office or place of business shall be
61 maintained under the same license, and no loans or advancements
62 shall be made at any other place than that designated in the li-
63 cense. But, in case of a removal, the banking commissioner may,
64 on application, indorse thereon a transfer to the new place of busi-
65 ness, with the date of transfer, and from the time of such in-
66 dorment the new place so designated shall be deemed the place
67 designated in the license.

68 (c) The banking commissioner shall, either personally or by
69 such person or persons as he may appoint for the purpose, at least
70 once a year and oftener if he deems it advisable, investigate the
71 business and affairs of every such licensee, and for that purpose,
72 shall have free access to the vaults, books, and papers thereof, and
73 other sources of information with regard to the business of such
74 licensee, and shall ascertain the condition of the business and
75 whether it has been transacted in accordance with law. Said com-
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76 missioner and every examiner appointed by him shall have au-
77 thority to examine, under oath or affirmation, any person whose
78 testimony relative to the business of any such licensee may be
79 required on any such examination. The cost of every such exam-
80 ination shall be paid by the licensee so examined, and said com-
81 missioner may maintain an action for the recovery of such costs in
82 any court of competent jurisdiction.

Sec. 2. Any person, persons, co-partnership, association, or
2 corporation who shall obtain a license, in accordance with the
3 provisions of section one of this act, shall be entitled to loan money
4 in sums of three hundred dollars or less, either with or without
5 security, to individuals pressed by lack of funds to meet immediate
6 necessities, at his, their, or its place of business, for which said
7 license is issued and to charge the borrowers thereof, for its use
8 or loan, interest as follows: Upon loans exceeding one hundred
9 dollars in amount, and not exceeding three hundred, not more
10 than two per centum per month; and, in addition, in any case
11 in which the loan is made for a period of not less than four months,
12 on sums not exceeding fifty dollars in amount, an examination

13 fee of not more than one dollar; on sums exceeding fifty dollars,
14 an examination fee of not more than two dollars, may be charged
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15 for examining the security offered or the credit and responsibility
16 of the borrower. No charge of any kind, in addition to interest, shall
17 be made on a loan of less than fifteen dollars. No charge, in ad-
18 dition to the said interest and examination fee, shall be exacted.
19 charged, or collected.

20 It shall not be lawful for said lender to divide or split up ap-
21 plications for loans, under any pretext whatsoever, so as to require
22 or exact any other or greater charges than prescribed herein; or
23 to make any charges for renewals or extensions, or for any trans-
24 fers or changes, of any loan or loans within four months of the
25 date of the original loan. Said licensee shall be entitled to charge
26 for each renewal, extension, or transfer of any loan, made after
27 the expiration of four months from date of said loan, a new ex-
28 amination fee as hereinbefore specified, providing said renewal, ex-
29 tension, or transfer shall be for a period of not less than four
30 months from date of making said renewal, extension, or transfer.
31 Interest shall not be payable in advance, and shall be chargeable
32 only upon unpaid balances. The examination fee herein provided
33 may be payable at the time of the making of the loan. A licensee
34 shall not be entitled to any examination fee, or any charge what-
35 soever, unless a loan is actually made. If interest or charges in
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36 excess of those hereinbefore prescribed shall be received by any
37 licensee, the said licensee shall thereupon lose all his right to collect
38 or receive the interest and charges allowed under this act, and
39 shall be entitled to recover from the borrower only the amount
40 actually loaned, together with interest at the rate of six per
41 centum per annum upon unpaid balances, less any and all amounts
42 already paid by the borrower on account of said loan, either as
43 principal or interest. Any person, borrowing money from any
44 licensee under this act, who shall be charged and pay any charges
45 or interest in excess of those prescribed and allowed by the pro-
46 visions of this act, shall be entitled to recover back from the lender,
47 by action at law, begun at any time within two years from the date
48 of the last payment, any and all sums of money so charged and
49 paid in excess of the amount of the original loan, together with
50 interest at the rate of six per centum per annum upon unpaid

51 balances, up to the date of final payment of said loan, and, in ad-
52 dition, fifty dollars as a penalty, to be paid to the borrower.

Sec. 3. A licensee making any loan under the terms of this act
2 shall, at the time of making such loans, give to the borrower a
3 receipt or card, upon which shall be stated the date and amount
4 actually loaned, the amount of examination fee, the amount and

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5 date of each payment thereon, and the rate of interest charged.
6 on the back thereof, or immediately attached thereto, shall be
7 printed in legible type, in English, a copy of section two of this
8 act.

Sec. 4. Wherever payment is made on account of a loan to
2 which the provisions of this act shall apply, the person receiving
3 such payment shall, when payment is made, give to the person
4 paying a receipt, setting forth the amount then paid, the total
5 amount previously paid, and the amount remaining due, identi-
6 fying the instrument accompanying the loan to which the payment
7 is to be applied.

Sec. 5. A licensee under the provisions of this act shall not
2 ask for, accept, or receive, from any borrower or intending bor-
3 rower, any power of attorney or written instrument authorizing
4 or purporting to authorize any person or persons, either individu-
5 ally or acting as officer or agent for any person, persons, co-part-
6 nership, association, or corporation, either within or outside of
7 this commonwealth, to sign, make, or execute any note, instrument,
8 or written promise to pay any sum or sums of money whatsoever.
9 Any note, instrument, or written promise to pay any sum of money,
10 made or executed by virtue or authority of any such power of at-
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11 torney or written authorization, shall be null and void, and proof
12 months; or both, at the discretion of the court.
13 vent recovery being had upon the same in any court of this state.

Sec. 6. Every person, persons, co-partnership, association, or
2 corporation, or any partner, director, officer, agent, or member
3 thereof, who shall violate any provision of this act, or shall direct
4 or consent to such violation; or who shall lend money in sums
5 of three hundred dollars or less, and charge or receive for the
6 loan or use thereof interest in excess of six per centum per annum.
7 without first having complied with the provisions of section one
8 of this act, shall be guilty of a misdemeanor, and upon conviction

9 thereof shall be sentenced to pay a fine of not more than five
 10 hundred dollars for the first offense; and, for each subsequent of-
 11 fense, a like fine, and to suffer imprisonment not to exceed six
 12 months; or both, at the discretion of the court.

Sec. 7. This act shall not affect any existing laws, special
 2 or general, authorizing a charge for the loan of money in excess
 3 of interest at the legal rate; and, *provided*, that this act shall not
 4 apply to any person, persons, partnership, association, or corpora-
 5 tion operating under the laws relating to banks, trust companies,
 6 building associations, or pawn-brokers.

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Section 8. All acts or parts of acts in so far as they are in-
 2 consistent herewith, are hereby repealed.

House Bill No. 485

(By MR. HOWARD)

[Introduced January 26, 1921; referred to the Committee on Med-
 icine and Sanitation.]

House Bill No. 485

A BILL to provide for the licensing of dental hygienists and provid-
 ing the duties and rights of dental hygienists.

Be it enacted by the Legislature of West Virginia:

Section 1. Any woman may become a dental hygienist who is
 2 of good moral character, having a high school education and being
 3 eighteen years of age or over, who is a graduate of a training school
 4 for dental hygienists approved by the state board of dental ex-
 5 aminers may upon payment of ten dollars be examined by said
 6 board on the subjects considered essential by it for a dental hy-
 7 gienist. If the applicant in the opinion of the board successfully
 8 passes said examination, she shall be registered and licensed as a
 9 dental hygienist.

Sec. 2. Any licensed dentist, public institution or school author-
 2 ities may employ such licensed dental hygienist. Such

3 licensed dental hygienist may remove lime deposits, ac-
 4 cretions and stains from the exposed surfaces of teeth, but
 5 shall not perform any other operation on the teeth or tissues of the
 6 mouth. She may operate in the office of any licensed dentist or
 7 in any public institution or in the schools, under the general direc-
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 8 tion or supervision of a licensed dentist. The board of dental
 9 examiners may suspend or revoke, with power to reinstate, the
 10 license of any licensed dentist who shall permit any dental nurse
 11 operating under his supervision, to perform any operation other
 12 than that permitted under the supervision of this section, and it
 13 may also suspend or revoke, with power of reinstatement, the
 14 license of any dental hygienist violating the provisions of this
 15 act.

House Bill No. 401

(BY MR. MURPHY.)

[Introduced January 25, 1921; referred to the Committee on Tax-
 ation and Finance.]

House Bill No. 401

A BILL to compensate the state troops or state guards also known as
 state scouts who rendered military service in behalf of the state
 and union during the late civil war after the formation of the
 state of West Virginia.

Be it enacted by the Legislature of West Virginia:

Section 1. That all state troops or state guards also known as
 2 state scouts who served under the state of West Virginia for a
 3 period of thirty days, or more, shall receive compensation for their
 4 services not to exceed fifteen dollars per month.

Sec. 2. This act does not include any soldier or soldiers who
 2 may have served in any state company, and who afterward be-
 3 came a regular soldier, and who is now being supported by the
 4 federal government or any who are now receiving a special pen-
 5 sion.

Sec. 3. It shall further be enacted that the governor, adjutant
 2 general and secretary of state shall compose a board called the
 3 state service commission, who shall make rules and regulations

4 for the disbursement of such funds as may be appropriated for
5 the state troops or state guards.

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Sec. 4. The above named commission shall have power to
2 draw on the general state fund for the necessary amount which
3 they may allow to all state troops or state guards who present
4 satisfactory evidence of their service to the state.

House Bill No. 64

(BY MR. BARNES)

[Introduced January 17, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 64

A BILL to protect women and minors of West Virginia from conditions detrimental to their health and morals, resulting from wages that are inadequate to maintain decent standards of living, by establishing a Minimum Wage Board; by providing for a fixed sum that may be used by said board in carrying out the duties imposed on them; by providing for methods of settling what shall constitute a minimum wage for women and minors; by providing that the standard minimum wage for women be derived from similar wages of men workers in like occupations; by providing for recovery by workers of a wage paid less than the minimum wage so determined; and, by providing for penalties in case of violation of this act.

Be it enacted by the Legislature of West Virginia:

Section 1. Where used in this act the term "board" means the
2 minimum wage board created by section two. The term "woman"
3 includes only a woman of eighteen years of age, or over. The
4 term "minor" means a person of either sex under the age of
5 eighteen years. The term "occupation" includes a business, in-

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6 dustry, trade, or branch thereof, but shall not include domestic
7 service.

Sec. 2. There is hereby created a board to be known as the
2 minimum wage board, to be composed of three members to be
3-4 appointed by the governor of West Virginia. As far as prac-
5 ticable the members of this board shall be so chosen that one will
6 be the representative of employees, one rpresentative of employers,
7 and one representing the public.

8 The governor of West Virginia shall make his first appoint-
9 ment hereunder within thirty days after this act takes effect, and
10 shall designate one of the three members first appointed to hold
11 office until January one, one thousand nine hundred and twenty-
12 two, one to hold office until January one, one thousand nine hun-
13 dred and twenty-three, and one to hold office until January one,
14 one thousand nine hundred and twenty-four, on or before the
15 first day of January of each year, beginning with the year one
16 thousand nine hundred and twenty-two, the governor shall ap-
17 point a member to succeed the member whose term expires on
18 each first day of January, and each new appointee shall hold office
19 for the term of three years from the first day of January of the
20 year for which such members shall be appointed. Each mem-
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21 ber shall hold office until his or her successor shall be appointed
22 and qualified; and any vacancy that may occur in the member-
23 ship of the board shall be filled by the governor for the unexpired
24 portion of the term.

25 A majority of the members shall constitute a quorum to trans-
26 act business, and the act or decision of such majority shall be
27 deemed the act or decision of the board, and no vacancy shall
28 impair the right of the remaining members of the board to exercise
29 all the power of the board.

Sec. 3. The first members appointed shall, within twenty days
2 after their appointment, meet and organize the board by electing
3 one of their members as chairman, and by choosing a secretary,
4 who shall not be a member of the board; and on or before the
5 tenth day of January of each year thereafter the board shall
6 elect a chairman and choose a secretary for the ensuing year.
7 The chairman and the secretary shall each hold office until his or
8 her successor is elected or chosen; but the board may at any time
9 remove the secretary. The secretary shall perform such duties

10 as may be prescribed, and receive such salary as may be fixed
11 by the board, such salary not to be in excess of two thousand dol-
12 lars per annum. None of the members shall receive any salary

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13 as such. The board shall have power to employ agents and such
14 other assistants as may be necessary for the proper performance
15 of its duties; *provided*, that until further authorization by legisla-
16 ture, the sum which it may expend, including the salary of the
17 secretary, shall not exceed the sum of five thousand dollars per
18 annum.

Sec. 4. At any public hearing held by the board, any person
2 interested in the matter being investigated, may appear and
3 testify. Any member of the board shall have power to administer
4 oaths, and the board may require by subpoena the attendance and
5 testimony of witnesses, the production of all books, registers and
6 other evidence relative to any matters under investigation at any
7 such public hearing, or at any session of any conference held, as
8 hereinafter provided. In case of disobedience to a subpoena, the
9 board may invoke the aid of the supreme court of West Virginia
10 in requiring the attendance and testimony of witnesses, and the
11 production of documentary evidence. In cases of contumacy or
12 refusal to obey a subpoena, the court may issue an order requiring
13 appearance before the board, the production of documentary evi-
14 dence, and the giving of evidence touching the matter in ques-
15 tion, and any failure to obey such order of the court may be pun-
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16 ished by such court as contempt thereof.

Sec. 5. The board is hereby authorized and empowered to make
2 rules and regulations for the carrying into effect of this act, includ-
3 ing rules and regulations for the selection of members of the
4 conferences hereinafter provided for, and the mode of procedure
5 thereof.

Sec. 6. The board shall on or before the first day of January
2 of the year one thousand nine hundred and twenty-two and of
3 each year thereafter, make a report to the governor of its work
4 and the proceedings under this act.

Sec. 7. There is hereby authorized to be appropriated out of
2 the treasury of the state of West Virginia for the fiscal year end-
3 ing June thirty, one thousand nine hundred and twenty-one, the

4 sum of five thousand dollars, or so much thereof as may be nec-
5 essary, to carry into effect the provisions of this act.

Sec. 8. The board shall have full power and authority; (1)
2 to investigate and ascertain the wages of women and minors, in
3 the different occupations in which they are employed in the state
4 of West Virginia; (2) to examine through any members or author-
5 ized representative, any books, pay-rolls, or other records of any
6 employer of women or minors, that in any way appertains to or

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7 has a bearing upon the question of wages of any such women or
8 minors; and, (3) to require from such employer a full and true
9 statement of the wages paid to all women and minors in his
10 employ.

11 Every employer shall keep a register of the names of the women
12 and minors employed by him in any occupation in the state of
13 West Virginia, of the hours worked by each, and of all payments
14 made to each, whether paid by the time or by the piece; and shall,
15 on request, permit any member or authorized represntative of
16 the board to examine such register. To assist the board in car-
17 rying out this act, the governor and commissioner of labor shall
18 at all times give it any information or statistics in their posses-
19 sion.

Sec. 9. The board is hereby authorized and empowered to
2 ascertain and declare in the manner hereinafter provided, the
3 following things; (1) standards of minimum wages for women in
4 any occupation within the state of West Virginia, and what wages
5 are inadequate to supply the necessary cost of living to any such
6 women workers, to maintain them in good health and to protect
7 their morals; and, (2) standards of minimum wages for minors
8 in any occupation within the state of West Virginia, and what
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9 wages are unreasonably low for such minor workers.

Sec. 10. If, after investigation, the board is of the opinion
2 that any substantial number of women workers in any occupation
3 are receiving wages inadequate to supply them with the neces-
4 cary cost of living in health, and to protect their morals, it may
5 call and convene a conference for the purpose and with the powers
6 of considering and inquiring into and reporting on the subject
7 investigated by the board, and submitted by it to such confer-
8 ence. The conference shall be composed of not more than three

9 representatives of the employers in such occupation, of an equal
10 number of representatives of the employees in such occupation, of
11 not more than three disinterested persons representing the public,
12 and of one or more members of the board. The board shall name
13 and appoint all the members of the conference and designate the
14 chairman thereof. Two-thirds of the members of the conference
15 shall constitute a quorum, and the decision or recommendation
16 or report of the conference on any subject submitted shall require
17 a vote of not less than a majority of all its members.

18 The board shall present to the conference all the information
19 and evidence in its possession or control relating to the subject
20 of the inquiry by the conference, and shall cause to be brought

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21 before the conference any witnesses whose testimony the board
22 deems material.

Sec. 11. After completing its consideration of and inquiry
2 into the subject submitted to it by the board, the conference
3 shall make and transmit to the board a report containing its find-
4 ings, and recommendations on such subject, including recommen-
5 dations as to standards of minimum wages for women workers in
6 the occupation under inquiry, and as to what wages are adequate to
7 supply the necessary cost of living to women workers in such
8 occupation, in order to maintain them in health and to protect
9 their morals.

10 In its recommendations on a question of wages the conference
11 (1) shall, where it appears that any substantial number of women
12 workers in the occupation under inquiry are being paid by piece
13 rates as distinguished from time rates, recommend such minimum
14 piece rates as will in its judgment be adequate to supply the nec-
15 essary cost of living to women workers of average ordinary ability
16 in such occupation, and to maintain them in health and protect
17 their morals; and (2), when it appears proper or necessary,
18 recommend suitable wages for learners and apprentices in such
19 occupation, and the maximum length of time any woman worker
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20 may be kept at such wages as learner or apprentice, which wages
21 shall be less than the regular minimum wages recommended for
22 the regular woman workers in such occupation; and (3) shall
23 recommend that the standard wage for women workers shall be
24 the same as the wage paid to men workers in like occupation.

Sec. 12. Upon receipt of any report from any conference the board shall consider and review the recommendations, and may approve or disapprove any or all of such recommendations, and may re-submit to the same conference, or a new conference, any subject covered by any recommendation so disapproved.

If the board approves any recommendations contained in any report from any conference, it shall publish a notice once a week for four consecutive weeks in a newspaper of general circulation printed in each county in the state of West Virginia, that it will, in a place and on a date named in the notice, hold a public hearing at which all persons in favor of or opposed to such recommendations will be heard. After such hearing the board may, in its discretion, make and render such an order as may be proper or necessary to adopt such recommendations and carry them into effect, requiring all employers in occupations affected thereby to observe and comply with such order. Such order shall become

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effective sixty days after it is made. After such order becomes effective, and while it is effective, it shall be unlawful for any employer to violate or disregard any of its terms or provisions, or to employ any women workers in any occupation covered by such order at lower wages than are authorized or permitted therein.

The board shall, as far as possible, mail a copy of such order to every employer affected thereby; and every employer affected by such order shall keep a copy thereof posted in a conspicuous place in each room in his establishment, in which women workers are employed.

Sec. 13. For any occupation in which only a minimum time rate wage has been established, the board may issue to a woman whose earning capacity has been impaired by age, or otherwise, a special license authorizing her employment at such wages less than the minimum time rate wage, as shall be fixed by the board and stated in the license.

Sec. 14. The board may at any time inquire into wages of minors employed in any occupation in the state of West Virginia, and determine suitable wages for them. When the board has made such determination it may make such an order as may be proper or necessary to carry into effect such determination. Such

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order shall become effective sixty days after it is made; and after

7 such order becomes effective, and while it is effective it shall be
8 unlawful for any employer to employ a minor in such occupa-
9 tion at less wage than is specified or required by such order.

Sec. 15. Any conference may make a separate inquiry into and
2 report on any branch of any occupation, and the board may make
3 a separate order affecting any branch of any occupation.

Sec. 16. The board shall from time to time investigate and
2 ascertain whether or not employers in the state of West Virginia
3 are observing and complying with its orders, and shall report to
4 the prosecuting attorney all violations of this act.

Sec. 17. All questions of fact arising under the foregoing pro-
2 visions of this act shall, except as otherwise herein provided, be
3 determined by the board, and there shall be no appeal from the
4 decision of the board on any such question of fact; but there
5 shall be a right of appeal from the board to the supreme court
6 of the state of West Virginia from any ruling or holding of a
7 question of law included or embodied in any decision or order of
8 the board. In all such appeals the prosecuting attorney shall
9 appear for and represent the board.

Sec. 18. Whoever violates this act, whether an employer, or

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2 his agent, or the director, officers, or agent of any corporation,
3 shall be deemed guilty of a misdemeanor, and upon conviction
4 thereof shall be punished by a fine of not less than twenty-five
5 dollars nor more than one hundred dollars, or by imprisonment
6 of not less than ten days, nor more than three months, or by both
7 such fine and imprisonment.

Sec. 19. Any employer, or his agent, or the director, officer, or
2 agent of any corporation, who discharges, or in any manner dis-
3 crimines against any employee because such employee has served,
4 or is about to serve on any conference, or has testified, or is about
5 to testify, or because such employer believes that said employee
6 may serve on any conference, or may testify in any investigation
7 or proceedings under or relative to this act, shall be deemed guilty
8 of a misdemeanor, and, upon conviction thereof, shall be punished
9 by a fine of not less than twenty-five dollars nor more than one
10 hundred dollars.

Sec. 20. Any act which is done, or admitted to be done, by
2 any agent, or officer, or director, acting for such employer would
3 constitute a violation of this act, shall also be held a violation by

4 the employer and subject such employer to the liability provided
5 by this act.

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Sec. 21. Prosecutions for violation of this act shall be on in-
2 formation filed in the circuit or intermediate court of the county
3 in which such violation occurred by the prosecuting attorney of
4 said county, and upon conviction thereof, shall be punished by
5 fine of not less than twenty-five dollars nor more than one hun-
6 dred dollars.

Sec. 22. If any woman worker is paid by her employer less
2 than the minimum wage to which she is entitled by virtue of or
3 under an order of the board, she may recover in a civil action the
4 full amount of such minimum wage, less any amount actually
5 paid to her by the employer, together with such reasonable attor-
6 ney's fees as may be allowed by the court; and any agreement for
7 her to work for less than such minimum wage shall be no defense
8 to such action.

Sec. 23. This act shall be known as "The West Virginia
2 Minimum Wage Law". The purposes of this act are to protect the
3 women and minors of West Virginia from conditions detrimental
4 to their health and morals, resulting from wages which are inade-
5 quate to maintain decent standards of living, and the act in each
6 of its provisions and in its entirety shall be interpreted to effectuate
7 these purposes.

House Bill No. 445

(By MR. OTTO.)

[Introduced January 25, 1921; referred to the Committee on Taxa-
tion and Finance.]

House Bill No. 445

A BILL to amend and re-enact sections seven, eight, ten and twenty-
eight of chapter thirty of the code of one thousand nine hundred
and thirteen (being serial sections, one thousand and twenty-
eight, one thousand and twenty-nine, one thousand and thirty-

one and one thousand and fifty), relating to the collection of taxes.

Be it enacted by the Legislature of West Virginia:

That sections seven, eight, ten and twenty-eight of chapter thirty of the code one thousand nine hundred and thirteen (being serial sections one thousand and twenty-eight, one thousand and twenty-nine, one thousand and thirty-one and one thousand and fifty), be and the same are hereby amended and re-enacted so as to read as follows:

Section 7. It shall be the duty of the sheriff or collector to
 2 give notice by posting at the places of voting in each district, and
 3 at not less than six other places in the district, for at least twenty
 4 days before the time appointed, that he will attend at one or
 5 more of the most public and convenient places for the people in
 6 such districts, such places to be specified in said notices, between
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 7 the first and the last days of October, and between the first and
 8 the last days of March, for the purpose of receiving taxes due by
 9 the people residing or paying taxes in said district, and that he will
 10 make a discount of two and one-half percent. to all such persons
 11 as shall pay at any time during the month of October all taxes
 12 next following; and the fact shall be stated in the notices re-
 13 make a discount of two and one-half per cent. to all such persons
 14 as shall pay during the month of March all their taxes due and
 15 payable on or before the last day of that month; which discounts
 16 shall be made on the whole amount of taxes and levies of every
 17 kind so collected by the sheriff or collector. Any sheriff or col-
 18 lector failing to post such notices as are herein required shall for-
 19 feit one hundred dollars for every such failure. The county court
 20 of any county may order that the notices hereinbefore required
 21 shall also be given by the sheriff or collector by advertising the
 22 same. After any such order is made and until it is set aside,
 23 the sheriff or collector shall, besides posing as hereinbefore re-
 24 quired, advertise such notices once a week for three weeks pre-
 25 ceding the first of October in each year, and for three weeks pre-
 26 ceding the first day of March in each year, in all newspapers pub-
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 27 lished in said county, and for each failure so to advertise, the
 28 sheriff or collector shall forfeit one hundred dollars.

Sec. 8. All taxes shall be due and payable as follows: one-

2 half thereof on or before the last day of October of the year for
3 which they were levied, and the other one-half on or before the
4 last day of March next following. The sheriff or collector shall
5 on the first day of November proceed to collect all taxes due on
6 or before the last day of October next preceding. All taxes due
7 on or before the last day of October shall bear interest at ten
8 per cent. per annum on the amount of such taxes from the first
9 day of December next following; and all taxes due on or before
10 the last day of March shall bear interest at ten per cent. per
11 annum on the amount of such taxes from the first day of May
12 next following; and the fact shall be stated in the notices re-
13 quired in the preceding section.

Sec. 10. Any goods or chattels in the county belonging to
2 the person or estate assessed with taxes may be distrained there-
3 for on and after the first day of November for all taxes due on or
4 before the last day of October next preceding, and on and after
5 the first day of April for all taxes due and payable on or before
6 the last day of March next preceding; or before those days by
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7 the assessor if such goods or chattels are about to be removed
8 from the county.

Sec. 28. The taxes which by this chapter are directed to be
2 collected for the state shall be paid into the treasury by the
3 sheriff as follows:

4 All of such taxes as shall have been collected by him on or
5 before the first day of January of the year following that for
6 which the taxes were assessed shall be paid into the state treasury
7 on or before the twentieth day of such January; and all of such
8 taxes as shall have been collected by him between the first day
9 of January and the fifteenth day of April of the year following
10 that for which the taxes were assessed shall be paid into the state
11 treasury on or before the first day of May next following, and
12 the remainder on or before the first day of the following August,
13 save only as follows: A sheriff or collector who may not have
14 qualified, or who may not have received the land and property
15 books before the first day of October, or who shall have been
16 prevented by legal process from collecting said taxes, shall be
17 allowed six months from his qualifications, or the delivery of
18 said books to such sheriff or collector, or from the removal of such
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19 legal restraint, to pay the said first installment into the state
 20 treasury, eight months for the second, and ten months for the
 21 third installment of the taxes with which he is charegable.

House Bill No. 384

(By MR. FREED)

[Introduced January 25, 1921; referred to the Committee on the Judiciary.]

House Bill No. 384

A BILL to amend and re-enact section twelve of chapter eighty-five of the code of West Virginia, Barnes' code, one thousand nine hundred and eighteen.

Be it enacted by the Legislature of West Virginia:

That section twelve of chapter eighty-five of the code of West Virginia, Barnes' code, one thousand nine hundred and eighteen, be amended and re-enacted to read as follows:

Appraisal of Estate.

Section 12. The personal estate of every deceased person, together with all real estate which his personal representative is authorized by will to lease or sell, or which is subject to a tax as provided by chapter thirty-three of the code, shall be appraised as follows: The court by whose order any person is authorized to act as personal representative shall appoint not less than three nor more than five appraisers, any three of whom may act, in the county in which deceased last had his residence, and a like number in every other county in which there may be any goods or chattels of the deceased or, in the case of a will in which there may be any real estate which the personal rep-

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resentative is authorized to lease or sell, or which is subject to a tax as provided by chapter thirty-three of the code, said appraisers after first taking an oath for the purpose, shall appraise its real and actual value all the tangible personal property of every description owned by deceased at the time of his death and located in their respective counties, and all real estate in their

18 respective counties which his personal representative is authorized
19 by will to receive the rents from, or to lease or sell, or which is
20 subject to tax as provided by chapter thirty-three of the code;
21 they shall also make a list of all his tangible property of every
22 description, including moneys, credits, investments, annuities, in-
23 surance policies, judgments and decrees for moneys, notes, bonds,
24 accounts and all other evidences of debt, whether owing to him by
25 persons or corporations in or out of the state; the number and
26 value, including both the par value and the actual value of any
27 shares of capital stock owned by him in any joint stock company
28 or corporation, whether located in this state or elsewhere; they
29 shall designate such intangible property as good, bad or doubt-
30 ful, as to them may appear to be correct, and by whom owing
31 and when payable, and from what time such of them as are in-
32 terest-bearing, bear interest. Every such note, bond or evidence
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33 of debt shall have endorsed thereon the word "appraised," under
34 which each acting appraiser shall sign his name. No judgment
35 shall be rendered by any of the courts of this state upon such note,
36 bond or evidence of debt unless and until the same shall be first
37 shown to have been listed by the appraisers; *provided, however,*
38 that any note, bond or evidence of debt which bears the endorse-
39 ment by the appraisers, as above required, shall need no further
40 proof that the same was listed. The several appraisements and
41 lists aforesaid shall be signed by the appraisers who made the
42 same, and returned to the clerk of said court who shall record
43 them; every such appraisalment and list shall be *prima facie* evi-
44 dence of the value of the estate embraced therein, and that it
45 came to the hands of the personal representatives; said appraisers
46 shall each receive not less than three dollars nor more than five
47 dollars per day, (to be fixed by the personal representative of each
48 particular estate), and their actual expenses necessarily incurred
49 in making said appraisalment. No person shall be permitted by
50 any means whatsoever to avoid the appraisalment and listing of
51 his estate, as herein provided.

House Bill No. 438

(By MR. STROTHER)

[Introduced January 25, 1921; referred to the Committee on the Judiciary.]

House Bill No. 438

A BILL providing for the submission of an amendment to the constitution of the state of West Virginia, amending section one of article nine, thereof to provide for the office of county treasury.
Be it enacted by the Legislature of West Virginia:

That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provision of section two of article fourteen of said constitution, shall be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred and twenty-two, which proposed amendment is as follows:

Section one, of article nine, to be amended, so as to read as follows:

Section 1. The voters of each county shall elect a surveyor of
2 lands, a prosecuting attorney, a sheriff, a treasurer, and one and
3 not more than two assessors, who shall hold their respective offices
4 for the term of four years.

5 (2) For convenience in referring to said proposed amendment,
6 and in the preparation of the form of the ballot hereinafter pro-
7 vided for, said proposed amendment is hereby designated as fol-
8 lows:

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9 To be known as "County Treasurer Amendment"

10 (3) For the purpose of enabling the voters of the state to vote
11 on the question of said proposed amendment to the constitution at
12 the said general election to be held in the year one thousand nine
13 hundred and twenty-two, the board of ballot commissioners of
14 each county are hereby directed to provide and have printed a sep-
15 arate ballot of convenient size, distinctly printed and in form sub-
16 stantially as follows:

17 BALLOT ON CONSTITUTIONAL AMENDMENT.

18 County Treasurer Amendment

19 Amending section one of article nine.

20 [] For Ratification

21 [] For Rejection

22 The same number of said separate ballots shall be printed and
23 shall be supplied to the several voting places in each county, and
24 to be paid for in the same manner as is provided for the regular
25 ballots to be used at said general election.

26 The commissioners of election at the several voting places in
27 each county, shall furnish to each voter one of said separate bal-
28 lots to be used by him for voting on the question of said proposed
29 amendment; but any voter shall also have the right to vote on the
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30 question of said proposed amendment by any other ballot printed
31 or written, which he may see fit to use, and which sufficiently dis-
32 closes his intention, and no ballot cast at said election on the ques-
33 tion of the proposed amendment shall be rejected if it sufficiently
34 appears therefrom what the voter intended; and every voter shall
35 have the right to vote on said proposed amendment as he shall see
36 fit.

37 The said election on the said proposed amendment at each place
38 of voting shall be superintended, conducted and returned, and
39 the result thereof ascertained by the same officers and in the same
40 manner as the election of any person to any office, and all provis-
41 ions of the law relating to general elections shall apply.

42 (4) On the thirtieth day after the election is held, or as soon
43 thereafter as practicable, the said certificates shall be laid before
44 the governor, whose duty it shall be to ascertain therefrom the re-
45 sult of said election in the state, and declare the same by proclama-
46 tion published in some one or more newspapers printed at the seat
47 of government. If a majority of the votes cast at the said elec-
48 tion upon said question be for ratification of said amendment, the
49 proposed amendment so ratified shall be of force and effect from

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50 the time of such ratification, and be part of the constitution of the
51 state.

52 (5) If the proposed amendment shall be so ratified at the gen-
53 eral election in the year one thousand nine hundred and twenty-
54 two, the legislature shall at its first regular session thereafter pass
55 suitable legislation to carry the same into effect.

House Bill No. 459

(BY MR. BARNES.)

[Introduced January 25, 1921; referred to the Committee on the Judiciary.]

House Bill No. 459

A BILL to provide for the prompt publication of the West Virginia reports.

Be it enacted by the Legislature of West Virginia:

That the following be enacted and inserted in the code of one thousand and nine hundred and sixteen, as section four of chapter fifteen thereof:

Section 4. The reporter shall be at liberty to place the contract
2 for the publication of such reports with a printer doing business
3 outside of this state, and it shall be his duty to let the contract to
4 such outside printer where so doing will secure more prompt pub-
5 lication of said reports.

House Bill No. 405

(BY MR. DAVIS, of Monongalia.)

[Introduced January 25, 1921; referred to the Committee on the Judiciary.]

House Bill No. 405

A BILL to amend and re-enact section one of chapter one hundred and two, acts of the legislature, one thousand nine hundred and nineteen, regular session, relating to state licenses.

Be it enacted by the Legislature of West Virginia:

That section one of chapter one hundred and two, of the acts of the legislature, one thousand nine hundred and nineteen, regular session, be amended and re-enacted so as to read as follows:

Section 1. No person without a state license therefor, shall:

- 2 (a) Keep an eating house or restaurant.
 - 3 (b) Keep for public use or resort, bowling alley, pool table,
4 billiard table, bagatelle table, or any table, of like kind.
 - 5 (c) Carry on the business of a druggist.
 - 6 (d) Exhibit any circus, menagerie, circus and menagerie com-
7 bined theatrical performance, street or other carnival, or public
8 show, to which admission is obtained for money or reward, ex-
9 cept for the benefit or under the auspices of a volunteer fire de-
10 partment.
 - 11 (e) Run or operate, for profit, a merry-go-round, roller coaster,
12 scenic railway or like device, or keep for public use or resort, a
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13 shooting gallery, skating rink; or run or operate a cane rack, doll
14 baby rack, knife rack, striking machine or like device, or human
15 laundry device, or dip device.
 - 16 (f) Act as a hawker or peddler.
 - 17 (g) Act as an auctioneer.
 - 18 (h) Practice the business of real estate agent, stock broker,
19 merchandise broker, or other broker, by buying or selling for
20 others, stocks, securities, or any other property for a commis-
21 sion or reward.
 - 22 (i) Practice the business of money broker, buying or selling
23 non-current or depreciated money or funds; or exchanging one
24 kind of money or funds for another, for benefit or reward.
 - 25 (j) Practice the business of pawn broker by lending money
26 or other thing for profit, for or on account of personal property
27 deposited with the lender in pledge.
 - 28 (k) Sell, or barter, or offer or expose for sale or barter, any
29 patent right.
 - 30 (l) Sell, offer, or expose for sale to merchants, trading stamps,
31 premium stamps, or certificates of like nature or character, or
32 undertaker with merchants to redeem such stamps or certifi-
33 cates in money or goods.
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- 34 (m) Being a traveling agent, canvasser or salesman, sell or
35 contract to sell any lightning rods, sewing machines, stove or
36 range, or organ, or other musical instrument, or books, maps, prints
37 pamphlets and periodicals, except such books, pamphlets and
38 periodicals that be of a religious or ethical nature, whether manu-
39 factured within or without this state.

40 (n) Sell, offer, or expose for sale, or solicit, or receive orders
41 for manufactured tobacco, snuff, cigars, cigarettes or other prep-
42 aration of tobacco or cigarette paper or wrappers, at retail.

43 (o) Carry on business of junk dealer, or act as agent solici-
44 tor, canvasser, or salesman for any junk dealer.

45 (p) Sell pistols, revolvers, dirks, slung-shots, billies, bowie
46 knives, metallic or other false knuckles, or weapons of like kind.

47 (q) Maintain or occupy any house-boat, or like structure or
48 vessel, upon or along the bed, banks or shores of any navigable
49 stream.

50 (r) Maintain any slot machine, or other automatic device,
51 which, for the same profit or reward, in each case, and without any
52 violation of law, furnishes music, or exhibits pictures, or pro-
53 vides facilities for weighing, or supplies any merchandise or other
54 thing, or renders any service, except that no license in any case

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55 be required to maintain any machine actually delivering
56 merchandise therefrom, automatically, where such machine is kept
57 within the merchant's place of business; but no slot machine or
58 other automatic device with respect to which, or its operation,
59 service, or supplies, there is any element of chance (being a
60 gaming table within the meaning of section one, of chapter one
61 hundred and fifty-one of the code), shall be licensed or protected
62 by any license.

63 (s) Being a corporation, heretofore or hereafter chartered
64 under the laws of this state, whether its principal place of business
65 or chief works be within or without the state, do, or attempt to do,
66 any business by virtue of its charter or certificate of incorpora-
67 tion.

68 (t) Being a corporation chartered or organized under the
69 laws of any other state or country, hold property or transact
70 business in this state; or being a corporation, hold more than ten
71 thousand acres of land in this state.

72 (u) Solicit, carry on or practice the business of a collection
73 agency, or association, whether it be a person, firm or corporation.

74 (v) Keep, or maintain, a public park, admission to which is
75 obtained for money or reward.

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76 (w) Practice the business of telling or pretending to tell for-
77 tunes.

78 (x) Carry on business of a labor agency.

79 (y) Any one manufacturing selling or distributing, either at
80 retail or wholesale, any and all preparations of every kind, char-
81 acter or nature, such as are prepared, mixed and sold at a soda
82 fountain, and all such preparations as bevo, pablo, milo, moxie,
83 ginger ale, near beer, coca cola, pop, and all other preparations of
84 like nature and character, commonly called and known as soft
85 drinks.

86 (z) Shall offer or expose for sale, revolvers, pistols, dirks,
87 bowie knives, slung-shots, razors, billics, metallic or other false
88 knuckles, and other dangerous and deadly weapons of like kind
89 and character.

90 All acts or parts of acts inconsistent herewith, are hereby re-
91 pealed.

House Bill No. 476

(By MR. HUGUS.)

[Introduced January 26, 1921; referred to the Committee on
Roads and Internal Navigation.]

House Bill No. 476

A BILL to provide for the registration of automobiles and motor
vehicles stored in public garages and for the rendering daily
reports to the state road commission of all transient motor
vehicles.

Be it enacted by the Legislature of West Virginia:

All owners of garages or other places where automobiles and
2 motor vehicles are left for storage for hire, shall render a daily
3 report to the state road commission of all automobiles and motor
4 vehicles which have been stored in their garages.

5 This report shall be sent by mail on or before ten o'clock each
6 morning and shall cover the twenty-four hour period ending at
7 midnight the night before. This report shall show (1) kind of
8 vehicle; (2) make; (3) size; (4) engine number; (5) color;
9 (6) license number. This report as far as is possible will list
10 motor vehicles in numerical order, as far as their license numbers
11 are concerned.

12 Failure to render this report as called for will subject the
13 owner, proprietor or operator of a garage to a fine of five dollars
14 for the first offense, and a like amount for each failure thereafter.

House Bill No. 422

(BY MR. HUNTER)

[Introduced January 25, 1921; referred to the Committee on
Taxation and Finance.]

House Bill No. 422

A BILL to empower the county court of the county of Raleigh to allow the members thereof compensation for their expenses while serving in court, and while serving as a committee or representative of the court, and to provide payment of such compensation.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of the county of Raleigh is hereby
2 empowered and authorized to allow the members thereof compensation
3 not to exceed six dollars per day for their expenses while
4 serving in court, in addition to their salary of two dollars per day;
5 and while serving officially as a committee or representative of
6 such court. Such compensation shall be paid out of the general
7 fund of the county in the same manner in which the salaries of the
8 members are paid.

ENGROSSED

House Bill No. 374

(BY MR. McCLINTIC, of Kanawha)

A BILL to amend and re-enact section seven of chapter one hundred
and forty-eight of the code of West Virginia, relating to deadly
weapons and state license to carry weapons.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter one hundred and forty-eight of the code of West Virginia, be amended and re-enacted so as to read as follows:

Section 7. *Clause a.* It shall be unlawful for any person to
2 sell, offer or expose for sale any toy pistol using explosives, dirk,
3 bowie knife, slung shot, metallic or other false knuckles or any
4 other dangerous or deadly weapon of like kind and character.

5 *Clause b.* It shall be unlawful for any person to knowingly
6 sell any rifle, shot gun, pistol or other firearm of any kind or char-
7 acter, or any ammunition therefor, or any other dangerous or
8 deadly weapon of like kind or character to any unnaturalized
9 foreign born person in this state.

10 Any person violating clause *a* and *b* shall be guilty of a mis-
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11 demeanor, and upon conviction therefor shall be fined not less
12 than ten nor more than one hundred dollars for each and every
13 offense.

14 *Clause c.* It shall be unlawful for any person to carry about
15 his person any dirk, bowie knife, slung shot, metallic or othe-
16 false knuckles or any other dangerous or deadly weapon of like
17 kind and character.

18 *Clause d.* It shall be unlawful for any person, without a
19 state license therefor as hereinafter provided, to carry about his
20 person, or in any receptacle in his possession and under his con-
21 trol, any revolver, pistol, billy, or any other dangerous weapon
21-a of like kind and character.

22 Any person violating any of the provisions of this section, for
23 which punishment is not otherwise herein provided, shall be
24 guilty of a misdemeanor and upon conviction therefor shall be
25 confined in the county jail for a period of not less than six
26 nor more than twelve months for the first offense; and upon con-
27 viction of the same person for the second offense, he shall be
28 guilty of a felony, and shall be confined in the penitentiary of
29 this state, not less than one nor more than five years, and in
30 either case, may also be fined not less than fifty dollars nor more
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31 than two hundred dollars, at the discretion of the court. It
32 shall be the duty of the prosecuting attorney to ascertain in each
33 case whether or not the charge made by the grand jury is the

34 first or second offense, and if it shall be the second offense it shall
35 be so stated in the indictment returned, and the prosecuting
36 attorney shall introduce the records evidence of said first offense,
37 and shall not be permitted to use his discretion in charging said
38 first offense; nor in introducing such evidence; *provided*, that
39 persons under the age of eighteen years may, at the discretion
40 of the court be sent to the reform school of this state.

41 It shall be the duty of every sheriff, deputy sheriff, or other
42 police officer to seize any dangerous or deadly weapons in the
43 possession of any person in violation of this act, and to deliver the
44 same to the circuit court of the county in which seized, which
45 weapon shall be confiscated and disposed of in such manner as
46 the court may order.

47 Any citizen of this state may obtain a state license to carry
48 any revolver, billy or mace, or other weapons of like
49 kind and character, by application therefor to the circuit court
50 of the county in which he resides, after first publishing notice
51 once a week for two successive weeks in a newspaper of general

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52 circulation in such county, of his name, residence and occupa-
53 the purpose or purposes for which, and the period during which
54 whereupon such court may grant such license in the following
55 manner, to-wit:

56 *First.* Such person shall file with the circuit court an applica-
57 tion in writing stating his name, residence and occupation, and
58 the purpose or purposes for which, and the period during which
59 he desires to carry such weapon, and the hearing thereof, on the
60 day stated in such notice, he shall prove such facts stated in his
61 application, and that he is over twenty-one years of age, of good
62 moral character, temperate habits and not addicted to the use
63 of intoxicating liquor or drugs and has not been convicted of
64 a felony nor any offense relating to the sale, possession of any
65 dangerous or deadly weapon.

66 *Second.* If the circuit court is satisfied with such proof that
67 there is good reason and cause for carrying such weapon, and that
68 such person has complied with all the other provisions of this
69 act, the circuit court may grant to such person a license to carry
70 such weapon, but the court in the order granting
70-a such license shall state the reason for granting the
70-b same. But before the said license shall be effective, such

71 person shall pay to the sheriff of such county the sum of ten dol-
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72 lars and shall with the clerk of the circuit court make a bond
73 in the penalty of three thousand five hundred dollars, with good
74 security, signed by responsible person or persons, or by some
75 surety company authorized to do business in this state, condi-
76 tioned that such licensee will not carry such weapon except in ac-
77 cordance with his said application as authorized by the court,
78 and that he will pay all costs and damages accruing to anyone
79 by the accidental discharge or improper, negligent or illegal dis-
80 charge or use of said pistol. Any such license shall be good
81 for one year, unless sooner revoked, and be co-extensive with the
82 state, and all licenses collected hereunder shall be accounted for
83 to the auditor and paid over by the sheriffs as other license taxes
84 are collected and paid, and the state tax commissioner shall pre-
85 pare all suitable forms for licenses and bonds and certificates
86 showing that such license has been granted, and do anything
87 else in the premises to protect the state and see to the enforce-
88-96 ment of this act.

97 *Provided*, that nothing herein shall prevent any person from
98 carrying any revolver, billy, mace or other weapon of like kind
99 and character, in good faith and not for a felonious purpose on
100 his own premises, nor shall anything herein prevent a person

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101 from carrying any such weapon (and if it be a revolver or other
102 pistol unloaded) from the place of purchase to his home or resi-
103 dence or a place of repair and back to his home or residence;
104 and, *provided, further*, that in case of riot, public danger and
105 emergency, the justice of the peace issuing a warrant may au-
106 thorize a special constable and his posse to carry such weapon
107 for the purpose of executing a process, and a sheriff in such
108 cases may authorize a deputy or posse to carry weapons, but
109 the justice shall write on his docket the causes and reasons for
110 such authority and the person so authorized, and index the same
111 and the sheriff or other officer shall write out and file with the
112 clerk of the county court the reasons and causes for such au-
113 thority and the persons so authorized, and the same shall always
114 be open for public inspection, and such authority shall authorize
115 such special constable, deputies and posses to carry weapons in
116 good faith for only specific purposes and times named in such

117 authority, and upon the trial of every indictment the jury shall
118 inquire into the good faith of the person attempting to defend
119 any such indictment under the authority granted by such justice,
120 sheriff or other officer, and any such person so authorized shall
121 be personally liable for the injury caused anyone by the negligent
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122 or unlawful use of any such weapon. It shall be the duty of all
123 ministerial officers, consisting of the justices of the peace,
124 notaries public and other conservators of the peace of this state,
125 to report to the prosecuting attorney of the county the name of
126 all persons guilty of violating this section, and any person
127 wilfully failing so to do, shall be guilty of a misdemeanor and
128 shall be fined not exceeding two hundred dollars, and shall,
129 moreover, be liable to removal from office for such wilful fail-
130 ure; and it shall likewise be the duty of every person having
131 knowledge of the violation of this act, to report the same to the
132 prosecuting attorney, and to freely and fully give evidence con-
133 cerning the same, and anyone failing to do so, shall be guilty of
134 a misdemeanor and upon conviction thereof shall be fined not
135 exceeding one hundred dollars.

136 *Provided, further,* that nothing herein contained shall be so
137 construed as to prohibit regular elected sheriffs and all regular
138 elected constables in their respective counties and districts, who
139 shall have given bond in the sum of not less than thirty-five
140 hundred dollars, conditional for the faithful performance of their
141 respective duties, and regularly appointed deputies of the sheriff,
142 who shall have given bond in the penalty of not less than thir-

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143 ty-five hundred dollars likewise conditioned, before the county
144 court of the county for which such deputy is appointed, and all
145 regularly appointed police officers of the cities, towns or villages,
146 when each of whom has given bond, to be approved by the council
147 or other governing body of each city, town or village and like-
148 wise conditioned, from carrying such weapon, as they were
149 authorized by law to carry prior to the enactment of chapter
150 fifty-one of the acts of the legislature of one thousand nine
151 hundred and nine, and all of said officers shall be liable upon
152 their official bond for the damage done by the unlawful or care-
153 less use of any such weapon whether such bond is so conditioned
154 or not. *Provided, further,* that all railroad conductors, railroad

155 engineers, firemen and brakemen, express messengers, baggage
156 masters and mail clerks shall be entitled to a license to carry
157 such weapons, while on actual duty as such, upon satisfactory
158 evidence to the judge of the circuit court that the applicant is a
159 person of good moral character, of temperate habits, that he is
160 not addicted to intoxication and has not been convicted of a
161 felony or of any other offense involving the use on his part in an
162 unlawful manner of any such weapons, and that he is such rail-
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163 road conductor, railroad engineer, fireman, brakeman, express
164 messenger, baggage master or mail clerk.

165 *Provided, further, if any person authorized by this section to*
166 *carry a pistol shall needlessly or unnecessarily display such pistol*
167 *in a playful or other manner on the public highways, or in*
168 *public places, his license shall be revoked by the court granting*
169 *same.*

170 All other acts or parts of acts inconsistent with this act are
171 hereby repealed.

House Bill No. 497

(BY MR. CRUMP)

[Introduced January 26, 1921; referred to the Committee on Immigration and Agriculture.]

House Bill No. 497

A BILL permitting farmers to manufacture and sell farm products without paying state license tax.

Be it enacted by the Legislature of West Virginia:

That all farmers may have the right to manufacture their own tobacco and other farm products and form joint stock companies and corporations for said purposes and sell the same directly to the consumer without being required to pay any state license tax upon the manufacture and sale of said products.

House Bill No. 512

(BY MR. WILLIS.)

[Introduced January 26, 1921; referred to the Committee on the Judiciary.]

House Bill No. 512

A BILL to amend chapter twenty-nine of Barnes' code of West Virginia relating to assessment of real estate.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-nine of Barnes' code of West Virginia be amended by adding thereto section sixty-eight, as follows:

Section 68. It shall be the duty of the assessor to obtain from every individual, company or corporation that owns property of record the amount of indebtedness against said property in the form of vendor's liens, deeds of trust, or mortgage, and by whom said liens are held. He shall make his assessment against said property at its true and actual value, but he shall deduct from said valuation the amount of indebtedness against said property, and said individual, company or corporation shall be required to pay taxes on said property only in the amount above the indebtedness against said property.

He shall assess the liens against said property at their face value.

The giver of the vendor's lien, deed of trust or mortgage shall have the same recorded in the county clerk's office of the county

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in which said property is situated, and the assessor shall correct his assessments from the record so provided.

In case the giver of a vendor's lien, deed of trust, or mortgage fails to have record made of said transaction, as herein provided, he shall not be entitled to the exemptions herein authorized.

In case of property lying in more than one county, the vendor's lien, deed of trust or mortgage shall be recorded in every county in which said property lies, and the proportions of the exemptions shall be in proportion to the valuation lying in each county as aforesaid.

25 In case non-residents of the state, holding vendor's liens, deed
26 of trust, or mortgage, against property in this state, fail to pay
27 taxes on their investments in such vendor's lien, deed of trust or
28 mortgage, the state shall collect the taxes from the owners of
29 said property. But the taxes so paid by said property owners
30 shall constitute a credit or set-off against said holders of said liens
31 to the amount of said taxes so paid.

32 This act shall apply to property assessed by the board of public
33 works, as well as to property assessed by the county assessor.

34 All acts or laws in conflict with this act are hereby repealed.

House Bill No. 483

(BY MR. HAYS)

[Introduced January 26, 1921; referred to the Committee on Railroads.]

House Bill No. 483

A BILL to amend and re-enact section sixty-five-a, chapter one hundred and six of the acts of the legislature of one thousand nine hundred and nineteen.

Be it enacted by the Legislature of West Virginia:

Section 65-a. That notwithstanding the provisions of any of the of the legislature of one thousand nine hundred and nineteen be amended and re-enacted so as to read as follows:

Sec. 65-a. That notwithstanding the provisions of any of the
2 sections of the code of West Virginia prescribing the time for the
3 construction or completion of railroads within this state, in com-
4 puting any such periods of time, there shall not be computed the
5 time from April sixth, one thousand nine hundred and seventeen,
6 to twenty-one months from and after the date of the termination
7 of the federal control of railroads under section fourteen of the acts
8 of congress of the United States of March twenty-one, one thou-
9 sand nine hundred and eighteen, or under any subsequent act or
10 acts the effect of which is to prolong or extend such federal control.

11 But the preceding part of this section shall not apply to any
12 railroad company heretofore organized under the laws of this state
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13 since the first day of January, one thousand nine hundred and two,
14 which shall not have actually and in good faith spent upon the
15 construction of its road ten percent of its stock actually subscribed
16 since January first, one thousand nine hundred and fourteen.

House Bill No. 362

(By MR. HUGUS, by request.)

[Introduced January 24, 1921; referred to the Committee on the Judiciary.]

House Bill No. 362

A BILL to abolish the criminal court of Ohio county from and after the first day of July, in the year one thousand nine hundred and twenty-one.

Be it enacted by the Legislature of West Virginia:

Section 1. That the criminal court of Ohio county, created
2 by chapter seven of the acts of the regular session of one thousand
3 eight hundred and ninety-three of the legislature, entitled "An act
4 to establish a criminal court in the county of Ohio", passed Feb-
5 ruary sixteen, one thousand eight hundred and ninety-three, be
6 and the same is hereby abolished from and after the first day of
7 July, in the year one thousand nine hundred and twenty-one.

Sec. 2. All indictments, suits, actions and proceedings of
2 every kind pending in said criminal court on the day last afore-
3 said, together with all records, process and papers pertaining
4 thereto, as well as all records, process and papers pertaining to
5 all trials, indictments, actions, suits and proceedings theretofore
6 had or pending in said court, and all bonds and recognizances
7 taken in said court, shall on and after the day last aforesaid be
8 certified and transmitted by the clerk of said court to, and filed

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9 and deposited in, the office of the clerk of the circuit court of

10 said county of Ohio; and all subpoenas, summons, and notices,
11 executions, writs and processes of every kind, and recognizances
12 outstanding on the day last aforesaid, shall be returned to the
13 office of the clerk of said circuit court, if returnable to the office
14 of the clerk of said criminal court, or to the first day of the next
15 ensuing regular term of said circuit court, if returnable to said
16 criminal court in term time, the same as if originally made re-
17 turnable to the said circuit clerk's office on the first day of the said
18 term of said circuit court; and said clerk of said circuit court shall,
19 after the day last aforesaid have the same powers and perform the
20 same duties in relation to such records, suits, actions, notices,
21 writs, process, papers and proceedings, including the issuing of
22 executions and other writs upon judgments, decrees or orders
23 of said criminal court, and the certifying of copies from the
24 records of said criminal court, as were vested in and required of
25 the clerk of said criminal court. All indictments, actions, suits
26 and proceedings pending in said criminal court on the day last
27 aforesaid, and in all cases, indictments, actions, suits and pro-
28 ceedings which theretofore had been in said criminal court and
29 shall on the day last aforesaid be pending in the circuit court

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30 of said county or in the supreme court of appeals of West Vir-
31 ginia upon appeal or writ of error, shall, when decided upon such
32 appeal or writ of error, be docketed and proceeded in and tried
33 and determined, and such further proceedings as may be proper,
34 had therein by the circuit court in all respects as if the same had
35 been found or originated in said circuit court and had been taken
36 thence on such appeal or writ of error.

Sec. 3. All acts and parts of acts in conflict herewith are hereby
2 repealed.

House Bill No. 341

(By Mr. McCLINTIC, of Greenbrier)

[Introduced January 24, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 341

A BILL to transfer and delegate to the various schools and departments of the state university as much of the routine and other work as possible which is now done by the several governmental departments, councils, commissions, boards etc.

Be it enacted by the Legislature of West Virginia:

That, in so far as the facilities of the state university provide that the work of the following branches of the state government be delegated to said university, namely: public health council, department of mines and mining, forest, fish and game warden, commissioner of agriculture, commission of state highways, and the work in any other branch of the state government in which it is shown to be to the best interests of the state to be transferred to the state university.

Be it *provided, further*, that the deans of the colleges under whose supervision the work shall come shall become directors of the various state activities above enumerated and they shall be designated as directors of state agriculture, directors of state forests and forestry, director of state mines and mining etc.

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That all moneys now appropriated for these activities or which shall hereafter be provided and appropriated for said purposes shall hereafter be directed to the various schools of the university and shall be expended under the supervision of the various colleges as directed by said directors. *Provided*, that the same restrictions which are now in force governing the expenditure of state funds shall apply, that all laws, the enforcement of which now devolve upon the departments now existing shall be enforced by the directors above designated and all laws relating to matters coming under the jurisdiction of these departments shall remain in force. Be it *provided further however*, that such duties as cannot be assumed and which it is deemed impracticable to transfer to the above designated departments shall be discharged by such persons or officers as shall be designated by law.

All laws inconsistent with the provisions of this act are hereby repealed.

House Bill No. 343

(By MR. McCLINTIC, of Greenbrier)

[Introduced January 24, 1921; referred to the Committee on the Judiciary.]

House Bill No. 343

A BILL to repeal chapter one hundred and three of the acts of the legislature of one thousand nine hundred and nineteen.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred and three of the acts of the legislature of one thousand nine hundred and nineteen be and the same is hereby repealed together with the other sections and parts of the code included in the enactment of said chapter.

House Bill No. 327

(By MR. JOHNSTON)

[Introduced January 24, 1921; referred to the Committee on Roads and Internal Navigation.]

House Bill No. 327

A BILL to amend and re-enact section one hundred and twenty-four of chapter thirty-nine of the acts of the legislature of one thousand nine hundred and nineteen, regular session, relating to the operation of motor vehicles upon the public highways of this state.

Be it enacted by the Legislature of West Virginia:

That section one hundred and twenty-four of the acts of the legislature of one thousand nine hundred and nineteen, be amended and re-enacted so as to read as follows:

Section 124. Every motor vehicle operated or driven upon the public highways of this state, shall be provided with adequate brakes, in good working order and sufficient to control such vehicles when same are in use, and an adequate horn or other device for signalling sufficient under all conditions, to give timely warning of the approach of the motor vehicle. During the period from thirty minutes after sunset to thirty minutes before sunrise, all vehicles, motor driven, when in operation shall display at least two lighted lamps on the front, the lens of which shall be frosted, shaded, colored, corrugated, or otherwise constructed as to break

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the glare of the reflector so as to produce a non-glaring light. Every motor vehicle shall have displayed on the rear thereof, a red light visible from the rear, the white rays of such rear light shall shine upon and illuminate the number plate carried on the rear of such vehicle so that said number shall be clearly visible; and all vehicles not motor driven shall have displayed on the rear thereof, a red light, plainly visible from the rear during the period of thirty minutes after sunset to thirty minutes after sunrise; *provided*, that such motor vehicle may be equipped with what is known as a search or spot light, which shall not be used as a head light for driving. Every such motor vehicle shall have devices to prevent excessive noise, annoying smoke, escape of gasoline or steam, as well as the falling out of embers or residue from the engine, and all exhaust pipes, carrying exhaust from the engine, shall be directed parallel to the ground or slanting upwards.

House Bill No. 379

(BY MR. PIERSON, by request.)

[Introduced January 24, 1921; referred to the Committee on Counties, Districts and Municipal Corporations.]

House Bill No. 379

A BILL to fix the salary of the county clerk of Braxton county and the time and manner of the payment of the same.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Braxton county, West Virginia, shall allow and pay to the county clerk thereof, out of the treasury of said county, an annual salary of three thousand dollars, which salary shall be paid monthly in the same manner that the salaries of other county officers are paid.

All acts and parts of acts inconsistent herewith are hereby repealed.

House Bill No. 348

(By MR. DOWNS.)

[Introduced January 24, 1921; referred to the Committee on Immigration and Agriculture.]

House Bill No. 348

A BILL to amend and re-enact section five chapter forty-four of the acts of the legislature of West Virginia of one thousand nine hundred and seventeen.

Be it enacted by the Legislature of West Virginia:

Section five, chapter forty-four, acts of one thousand nine hundred and seventeen, shall be amended and re-enacted so as to read as follows:

Strike out the following words in line three, after the word act: "and shall draw upon the same as needed to meet all expenses incurred on account of the requirements of this act, and any money remaining after all of said expenses have been paid shall be expended by the said commissioner by and with the consent of the governor in the discharge of his duties in behalf of agriculture in this state." and substitute the following words in lieu thereof: All moneys collected under this act shall be expended in the following manner and no other: The West Virginia agricultural experiment station shall collect all samples of fertilizers, make all analyses of said fertilizers and publish all reports, as provided under section four of this act, and shall draw upon the treasurer

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to the extent of fifteen cents per ton for this work. The extension

14 division of the West Virginia college of Agriculture shall actively
15 seek to educate the farmers of this state as to the special values
16 of different brands of fertilizers, their respective uses for different
17 crops when applied to different soil types, and shall, by demon-
18 strations and otherwise, seek to direct the farmers in the best uses
19 of fertilizers, and the said extension division shall draw upon the
20 treasurer to the extent of fifteen cents per ton for this work.

Sec. 5-a. The state department of agriculture shall carry out
2 all other parts of said chapter forty-four, acts of one thousand
3 nine hundred and seventeen, including licensing, prosecutions,
4 etc., and shall draw upon the treasury to the extent of ten cents per
5 ton for this work.

6 All acts or parts of acts inconsistent with this amendments are
7 hereby repealed.

House Bill No. 364

(By MR. WHITE.)

[Introduced January 24, 1921; referred to the Committee on
Railroads.]

House Bill No. 364

A BILL to require railroad companies operating within the state of
West Virginia to install and maintain at all passenger stations
or stops on their lines a telephone for the purpose of affording
information to the traveling public as to the progress of passen-
ger trains on said line or lines.

Be it enacted by the Legislature of West Virginia:

Section 1. That all railroads operating within this state shall
2 be and are hereby required within six months from the time this
3 act takes effect, to erect, install, maintain and keep in good repair
4 a telephone to be used by agent or other employee at all stations
5 or stops on their said lines where passengers are taken on and off of
6 passenger trains operating thereon and where an agent or other em-
7 ployees are employed and stationed by said company during the day
8 or any part thereof, in excess of eight hours or at the time of the

9 approach and departure of a passenger train or trains, for the
 10 purpose of ascertaining for the traveling public the progress of the
 11 train or trains. No such telephone shall be required at any
 12 such station or stop where telegraph system in the charge of an
 13 expert operator is maintained by said company during the hours

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14 or at the time above mentioned and which furnishes the desired
 15 information to the traveling public aforesaid, except where such a
 16 telephone must be used to connect with other stations and stops.

17 In installing and maintaining the telephones aforesaid the com-
 18 pany shall be privileged either to build their own telephone sys-
 19 tem or lines or use convenient commercial telephone systems, but
 20 in either event all stops or stations as aforesaid between any two
 21 division points, if within the state, or between a division point in
 22 the state, and thence to the station nearest on the line to the state
 23 border shall be so connected. Failure to install said telephone
 24 within any station within the state as aforesaid, or failure to
 25 maintain the same in good order for any forty-eight-hour period,
 26 shall be a misdemeanor, punishable by a fine of not less than
 27 ten dollars nor more than one hundred, and every forty-eight
 28 hours any telephone is not so installed or, if installed is not so
 29 maintained, shall be regarded as a separate offense.

House Bill No. 475

(By MR. HUGUS)

[Introduced January 26, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 475

A BILL to prevent the theft of automobiles and motor vehicles and
 to provide penalties for the violation thereof.

Be it enacted by the Legislature of West Virginia:

Penalty for Theft of Vehicle.

Section 1. Any person who shall wilfully, and with intent
 2 to deprive the owner thereof, either temporarily or permanently,

3 take possession of and drive or take away, and any person who
 4 shall assist in and be a party to such taking possession of, driv-
 5 ing and taking away of any vehicle belonging to another and
 6 lawfully standing in any street, road, garage or other building,
 7 or place, and whoever receives, buys or conceals any vehicle,
 8 knowing the same to have been stolen, shall be deemed guilty of
 9 a felony, and on conviction thereof shall be sentenced to pay a
 10 fine not less than two hundred dollars and not exceeding five
 11 thousand dollars, and to undergo imprisonment by separate or
 12 solitary confinement at labor not exceeding ten years.

Penalty for Theft of Vehicle Parts.

Sec. 2. Whoever maliciously or with intent to steal, or without
 2 authority from the owner, unlawfully removes from any vehicle

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3 any part or portion thereof, or anything attached thereto, or con-
 4 tained therein, or whoever knowingly buys, receives or has in his
 5 possession any of such articles or any part thereof so unlawfully
 6 removed, shall be deemed guilty of a misdemeanor, and be im-
 7 prisoned for not more than two years nor less than one year, or
 8 fined not more than five hundred dollars nor less than one hun-
 9 dred dollars, or both, at the discretion of the court.

Sec. 3. All acts inconsistent herewith are hereby repealed.

House Bill No. 526

(BY MR. GRISSINGER.)

[Introduced January 26, 1921; referred to the Committee on
 Education.]

House Bill No. 526

A BILL to authorize and direct the state board of education to estab-
 lish and maintain a pension system for school teachers in West
 Virginia and to authorize the expenditure of public school funds
 for the same.

Be it enacted by the Legislature of West Virginia:

Section 1. The state board of education is hereby authorized
 2 and directed to prepare and publish rules and regulations estab-

lishing a pension system for successful teachers of long experience
ing the pension system provided herein. It is provided further
of law, after July first, nineteen hundred and twenty-one.

Sec. 2. Boards of education of districts and independent districts are hereby authorized to use public school funds for paying all or a part of the cost of maintaining the said pension system for such district, the aggregate spent for such purpose in any year not to exceed the amount accruing from a levy of two cents on each one hundred dollars of the assessed valuation of the property of the district.

Sec. 3. The state superintendent of free schools is hereby authorized to expend, on the approval of the state board of education

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any state funds appropriated to maintain or to assist in maintaining the pension system provided herein. It is provided further that the state board of education and the state superintendent of free schools or any of their agents shall not, at any time, by rules and regulations or by contracts, obligate the state of West Virginia for any amount not appropriated for such purpose.

Sec. 4. The pension system provided herein shall in no way effect or interfere with the pension systems operated in any district under special acts of the legislature.

ENGROSSED

House Bill No. 416

A BILL authorizing the town of Milton, a municipal corporation in the town of Cabell, to issue bonds for the construction of sewers in said town and establishing a sewer system therein.

Be it enacted by the Legislature of West Virginia:

Section 1. The town of Milton, a municipal corporation, in the county of Cabell, state of West Virginia, is hereby authorized and empowered to hold a special election in said town for the purpose of voting on the question of issuing bonds not to exceed the aggregate principal amount of thirty-five thousand dollars of a term not to exceed thirty years for raising money for the purpose of building and constructing sewers in and for said town and estab-

8 lishing a sewer system therein. Upon the passage of this act, the
9 common council of said town of Milton may make an order of rec-
10 ord directing a special election, upon the question of the issuance
11 of said bonds, to be held in said town, and to that end shall make
12 an order briefly stating the purpose for which the bonds are pro-
13 posed to be issued, the aggregate principal amount of said bonds

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14 which in no case shall exceed thirty years, at a rate of six per
15 centum per annum, which shall be paid annually, and, that pro-
16 vision will be made for a direct annual tax sufficient to pay an-
17 nually the interest on such bonds and the principal thereof within
18 and not exceeding the term for which such bonds shall run, and
19 shall order that a vote be taken for which such bonds shall run,
20 and shall order that a vote be taken upon the issuance of such
21 bonds in the usual voting place or precinct in the town on a date
22 then and there specified. Notice of the election shall be given as
23 hereinafter provided. Notice of the election shall be posted at
24 least thirty days before the date fixed for holding the election as
25 follows: The recorder of the town shall cause as many copies of
26 such order to be written or printed as may be necessary and sign
27 the same, and he shall post one of them in a conspicuous place in
28 the council chamber of said town, and one at the front door of said
29 council chamber, and deliver the others to the sergeant of said town
30 who shall post copies thereof at several conspicuous places in said
31 town. The certificates of such recorder and sergeant that such no-
32 tices have been posted by them respectively, as heretofore provided,
33 filed with the common council shall be conclusive evidence of such
34 facts. The order for the election shall be published in some news-
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35 paper of general circulation in said town, at least once, and thirty
36 days prior to the date fixed for such election..

37 There shall be printed or written upon the ballots to be voted at
38 such special election the words "for sewer bonds" and "against
39 sewer bonds" or substantially similar words which will enable
40 the voter to indicate his desire on said question. Such ballots
41 need not conform to the requirements of any other law and shall
42 be prepared and distributed by the recorder of said town; but in
43 case of the failure of such recorder to furnish such ballots at such
44 voting place or precincts the voters thereat may prepare their
45 own ballots. The said special election shall be held at the usual

46 voting places in said town by commissioners appointed for that
47 purpose by the common council of said town at the time the elec-
48 tion is ordered, or at any time prior to the time of such election,
49 and such election shall be opened, held and conducted, and the
50 result shall be ascertained, returned and canvassed, substantially
51 as provided by the law or laws governing general elections so for
52 as the same may apply. All officers who are required to perform
53 any duties in connection with such special election and all voters
54 voting thereat shall be subject to the penalties prescribed in case
55 of general elections, and the expense of calling and holding any

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56 election hereunder shall be a charge on said town of Milton. If
57 it shall appear when the result of such special election is as-
58 certained that not less than three-fifths of all the votes cast for
59 and against the proposed bond issue are in favor of such issue, the
60 common council of said town shall issue the bonds so authorized
61 as hereinafter provided. If at such election three-fifths of all
62 the votes cast for and against said bonds shall not be in favor of
63 the issuance of such bonds, the same shall not be issued.

Sec. 2. Whenever it shall have been determined from the
2 result of such special election that three-fifths of the votes cast
3 in such election were in favor of issuing such bonds, the com-
4 mon council of said town of Milton shall by an order or reso-
5 lution, authorize and direct the mayor and recorder (or
6 other officers exercising like functions) to execute under the seal
7 of the town the amount of bonds authorized by vote taken as
8 aforesaid. The said bonds shall bear date and be in such form,
9 either coupon or registered or coupon and registered combined,
10 of such denomination, and payable as to both principal and inter-
11 est at such place or places as the common council may provide,
12 and shall contain a recital that they are issued pursuant to the
13 authority of this act, and such recital shall be conclusive evi-
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14 dence of their validity and of the regularity of their issue. The
15 order or resolution authorizing and directing the execution of
16 said bonds shall provide for the collection of a direct annual
17 tax sufficient to pay annually the interest on such bonds and
18 the principal thereof within and not exceeding the term for
19 which they shall run which may be assessed, levied and col-
20 lected without regard to any limitation or restriction contained

21 in any other law or laws upon the amount of taxes which may
22 be assessed, levied and collected. Said bonds may be sold from
23 time to time at public auction or private sale for the best price
24 obtainable, but for not less than ninety-five per cent of the
25 par value thereof, and accrued interest, in such amounts as to the
26 mayor and recorder of the said town of Milton may appear ad-
27 visable, and to the best interest of the said town, and the pro-
28 ceeds thereof shall be applied to the cost and expense involved in
29 the construction of sewers in said town of Milton and appur-
30 tenances; and to repairing and improving the reservoirs and
31 water system of said town but no purchasee of said bonds shall
32 be liable to see to the application of such proceeds.

Sec. 3. The words "common council" shall be construed to
2 include any person, body or organization created to act in lieu
3 of or in the place and stead of such common council.

House Bill No. 520

(By MR. BIVENS, by request.)

[Introduced January 26, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 520

A BILL to amend and re-enact section two of chapter twenty-eight-a
of the code of West Virginia, relating to tax levies.

Be it enacted by the Legislature of West Virginia:

That sub-division "c" of section two of chapter twenty-eight-a of
the code of West Virginia, be and the same is hereby amended and re-
enacted so as to read after the last semicolon in said sub-division
following the words "for said purposes", as follows:

; and, *provided, further*, that the county court of any county
2 may levy in addition to said maximum and any other special levies
3 not exceeding thirty cents on each one hundred dollars of valau-
4 tion on the taxable property of the county to be called a special
5 bridge levy for the purpose of building, buying, repairing and
6 maintaining bridges, and the fund arising from such levy shall
7 herein be designated for such purposes and no other.

House Bill No. 436

(BY MR. DEULEY.)

[Introduced January 25, 1921; referred to the Committee on Labor.]

House Bill No. 436

A BILL requiring owners, proprietors and operators of foundries, sheet and tin mills to provide shower baths for the use of their employees.

Be it enacted by the Legislature of West Virginia:

Section 1. It shall be the duty of all owners, proprietors and operators of foundries, sheet and tin mills employing ten or more men to provide shower baths, with hot and cold water, for the use of their employees, and also to provide and furnish their employees comfortable dressing rooms, with heat when necessary to dry clothing and individual lockers in which their employees may hang their clothes.

Sec. 2. Any failure or neglect on the part of any such owners, proprietors or operators to comply with or perform any of the provisions of this act shall be on conviction thereof, subject to a fine of not less than ten dollars nor more than one hundred dollars. Justices of the peace shall have concurrent jurisdiction with the circuit court for the trial of offenses under this act.

Sec. 3. All acts and parts of acts in conflict with this act are

House Bill No. 425

(BY MR. TAYLOR, by request)

[Introduced January 25, 1921; referred to the Committee on Railroads.]

House Bill No. 425

A BILL to promote the comfort of passengers on railroad trains.
Be it enacted by the Legislature of West Virginia:

Section 1. That all railroads carrying passengers in the state
2 other than street railroads shall provide separate and equal ac-
3 commodations for the white and colored races, by providing two
4 or more passenger cars for each passenger train or by dividing
5 the passenger cars by a partition so as to secure accommoda-
6 tions separately.

Sec. 2. Conductors of such passenger cars shall have power,
2 and are hereby required to assign each passenger to the car, or
3 the division of the car, when it is divided by a partition; and
4 should any passenger refuse to occupy the car or the division
5 to which he or she is assigned by such conductor, said con-
6 ductor shall have the right to refuse to carry such passenger
7 on his train, and for such refusal neither he nor the railroad
8 company shall be liable for any damages whatever in any court;
9 *provided*, that this act shall not apply to cases where white and
10 colored passengers enter into this state upon such railroad under

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11 contract for their transportation made in other states where like
12 laws do not prevail.

Sec. 3. Any passenger upon a train provided with separate
2 coaches or divisions for the passengers, who shall ride or attempt
3 to ride in a coach or division of same not designated for his
4 or her car contrary to the provisions of this act, shall be guilty
5 of a misdemeanor, and shall be fined, upon conviction an amount
6 not exceeding one hundred dollars.

Sec. 4. All railroad companies that shall refuse or neglect
2 within sixty days after the approval of this act, to comply with
3 the requirements of section one of this act, shall be deemed

4 guilty of a misdemeanor, and shall, upon conviction thereof be
 5 fined not exceeding five hundred dollars, and any conductor who
 6 shall refuse or neglect to carry out the provisions of section two
 7 of this act, shall be deemed guilty of a misdemeanor, and shall
 8 upon conviction thereof be fined not exceeding one hundred
 9 dollars.

Sec. 5. All railroad companies shall make no difference or
 2 discrimination in the quality and convenience of the accommo-
 3 dations provided for the two races under the provisions of section
 4 one of this act.

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Sec. 6. All laws in conflict with the provisions of this act
 2 be and the same are hereby repealed.

House Bill No. 498

(BY MR. PIERSON)

[Introduced January 26, 1921; referred to the Committee on In-
 surance.]

House Bill No. 498

A BILL to amend and re-enact section one thousand three hundred
 and thirty-eight of Hogg's code, one thousand nine hundred and
 thirteen relating to fees of insurance commissions.

Be it enacted by the Legislature of West Virginia:

Section 5. The commissioner shall demand and receive the fol-
 2 lowing fees from all insurance companies; for annual fee for
 3 each license ten dollars; for receiving and filing annual reports, ten
 4 dollars; for valuation of policies of life insurance companies or-
 5 ganized under the laws of any other state admitted to transact
 6-7 business in this state, such rate for each one thousand dollars of
 8 insurance valued as is imposed by such other state upon any sim-
 9 ilar insurance company organized under the laws of this state ad-
 10 mitted to, transact business in such other state; for filing any ad-
 11 ditional paper required by law, twenty-five cents; for every cer-
 12 tificate of valuation, copy of report of certificate of condition of

13 company to be filed in any other state, five dollars; for each
14 agent's certificate of authority and copy of report fifty dollars.

15 It shall be unlawful for any agent to appoint sub-agents to act
16 for and in behalf of himself or the company he represents without

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17 such sub-agent having first obtained an agent's certificate of au-
18 thority from the auditor of this state and paid the fee of fifty dol-
19 lars as provided herein.

20 Any person or agent violating the provisions of this section shall
21 be deemed guilty of a misdemeanor and upon conviction be fined
22 not to exceed two hundred dollars or less than one hundred dollars
23 and may be confined in the county jail for a period of three
24 months, or in the discretion of the court sentenced to both fine and
25 imprisonment.

House Bill No. 407

(By MR. DAVIS, of Monongalia)

[Introduced January 26, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 407

A BILL providing for license to sell pistols and other dangerous
and deadly weapons, and providing a license therefor and pen-
alties for violation of this act.

Be it enacted by the Legislature of West Virginia:

Section 1. It shall be unlawful for any person, firm, associa-
2 tion, company or corporation to sell, offer or expose for sale,
3 any revolver, pistol, dirk, bowie knife, slung-shot, razor, billy,
4 metallic or other false knuckles, or any other dangerous and
5 deadly weapon of like kind and character, without first obtain-
6 ing therefor a state license as provided by law.

7 It shall be unlawful to sell to any person not a citizen of the
8 state, any of the aforesaid weapons. Any person desiring to
9 purchase any of the above weapons shall present to the dealer

10 authority under this act to purchase same, his license showing
11 that he is entitled to carry such weapons; or, if he has no li-
12 cense to carry such weapons, he shall then file with such dealer
13 his affidavit showing that he has purchased same for the pur-
14 pose of his own protection at home and that it is his intention
15 to keep said weapon or weapons on his own premises and that

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16 he is not purchasing same for the purpose of carrying it upon
17 any premises other than his own. And in this affidavit he shall
18 give his name, age, residence and occupation, the color of his
19 eyes, his complexion, color of hair, his weight and height. And
20 it shall be unlawful for any dealer in pistols or other dangerous
21 and deadly weapons enumerated in this act, to sell any of such
22 weapons without first obtaining the information herein set out;
23 and it shall be the duty of such dealer to file said affidavits with
24 the prosecuting attorney on the first day of each month.

25 It shall be the duty of the dealer to give as minute a descrip-
26 tion as possible of the pistol or other weapon sold, including the
27 number, caliber, etc., and to whom sold, which shall also be filed
28 with the prosecuting attorney when said affidavits are filed as
29 required herein.

30 All acts or parts of acts inconsistent herewith are hereby re-
31 pealed.

House Bill No. 516

(BY MR. LANTZ.)

[Introduced January 26, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 516

A BILL relating to employers and employees.

Be it enacted by the Legislature of West Virginia:

Section 1. Wage earners in private as distinguished from gov-
2 ernment employees shall have the right to organize in trade or
3 or labor unions, or other lawful forms of association, to bargain
4 collectively, to be represented by representatives of their own
5 choosing in negotiations and adjustments with employers in re-

6 spect to wages, hours of labor and relations and conditions of
7 employment; but the right of any wage earner to refrain from
8 joining any organization or to deal directly with his employer
9 if he so chooses shall be in no way limited or interfered with.

Sec. 2. An employer shall have the right to deal or not to deal
2 with men or groups of men who are not his employees and chosen
3 by and from among them; and no denial is intended of the right
4 of an employer and his workers to voluntarily agree upon the form
5 of their representative relations.

Sec. 3. Any person, group of persons, firm, association, cor-
2 poration or union, who shall by bribery, intimidation, threat of
3 personal injury or injury to or destruction of property, try to

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4 induce or compel any wage earner to refrain from joining or be-
5 coming a member of any union or association, shall be guilty of
6 a misdemeanor, and on conviction thereof, shall be punished by a
7 fine of not less than fifty dollars, nor more than five hun-
8 dred dollars, or imprisoned for a term of not less than sixty
9 days, nor more than twelve months, or both at the discretion of
10 the court.

Sec. 4. Any person, group of persons, firm, association, cor-
2 poration or union, who shall by force, intimidation, bribery, threat
3 of personal violence or injury to or destruction of property, attempt
4 to prevent any wage earner or laborer from engaging in any labor
5 or the performance of any work or duty he contracts or desires
6 to do; or who shall interfere with or try to prevent the operation
7 of any mine, plant, manufactory or business of any kind; or who
8 shall by any means whatsoever interfere with or try to prevent the
9 legal operation of any railroad, steamboat or any other convey-
10 ance that transports and carries fuel or foodstuff in any form for
11 the use of the public, shall be guilty of a misdemeanor, and on con-
12 viction thereof, shall be punished by a fine of not less than fifty
13 dollars, nor more than five hundred dollars, or imprisonment for

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14 not less than sixty days, nor more than twelve months, or both
15 at the discretion of the court.

Sec. 5. This act shall be construed as in no way affecting the
2 employees of state, county or municipal governments.

Sec. 6. All acts or parts of acts conflicting with the provisions
2 of this act are hereby repealed.

House Bill No. 447

(By MR. LYTTLETON.)

[Introduced January 25, 1921; referred to the Committee on Counties, Districts and Municipal Corporations.]

House Bill No. 447

A BILL 'changing the boundary lines between Kanawha and Fayette Counties.

Be it enacted by the Legislature of West Virginia:

That the boundary lines between Kanawha county and Fayette county be changed and relocated so as to hereafter read and exist as follows:

Section 1. Beginning at a point in the mouth of Smithers 2 creek on the right or north bank of Kanawha river, thence crossing 3 said river S. 41° 30' W. 851 .5 feet to a point in low water mark 4 of said river on the left or south bank, thence down said river in 5 low water mark as follows: N. 56° 50' W. 174 feet to a point, 6 N. 63° 11' W. 529 feet to a point, N. 51° 48' W. 690 feet to a 7 point on said river N. 53° 03' W. 377 feet to a point near the 8 bridge on said river N. 61° 59' W. 296 feet to a point on said 9 river, N. 74° 07' W. 200 feet to a point on said river, N. 85° 44' 10 W. 338 .5 feet to a point on said river S. 82° 57' W. 807 feet 11 to a point on said river, S. 81° 36' W. 487 feet to a point on said 12 river, S. 72° 00' W. 636 feet to a point by a large sycamore stump, 13 on said river, S. 76° 20' W. 720 feet to a point on the Riggs and

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14 Montgomery line, S. 69° 02' W. 500 feet to a point on said river 15 a corner to the government property of Lock No. 2 and with said 16 property S. 0° 23' E. 177 feet to a planted stone corner to same 17 No. 89° 37' W. 151 feet to a planted stone corner to same, S. 18 S. 0° 23' E. 200 feet to a planted stone corner to same on the 19 right of way of the Chesapeake and Ohio railway, thence with 20 said right of way N. 89° 22' W. 399 .4 feet to a point 5 feet from 21 the west abutment of the railroad bridge across Morris creek 22 thence running up said Morris creek following in the center and 23 the several meanders of said creek 5388 .8 feet more or less to a 24 stone (lying down) in the center of said creek an accepted corner

25 to the present county line, a nail in a large beech tree bears N. 63°
26 50' W. 45 .3 feet. Thence with the original county line as now
27 located and described without change or correction which line is
28 described as S. 12° 50' W. 72 155 feet to a chestnut on top of a
29 high knoll on top of the dividing ridge between the waters of Coal
30 river and Cabin creek.

Sec. 2. That all the territory lying in and between the present
2 lines and the above described lines be and is hereby taken from
3 said Kanawha county and added to said Fayette county and that
4 no other lines be changed or re-located.

House Bill No. 490

(BY MR. IDELBURG.)

[Introduced January 26, 1921; referred to the Committee on Public Corporations and Joint Stock Companies.]

House Bill No. 490

A BILL to amend and re-enact section seventy-eight of chapter twenty-one of the acts of the legislature of one thousand nine hundred and thirteen, regular session, so as to authorize banks and banking companies incorporated under the laws of this state to establish branches within this state.

Be it enacted by the Legislature of West Virginia:

That section seventy-eight of chapter twenty-one of the acts of the legislature of one thousand nine hundred and thirteen be and it is hereby amended and re-enacted so as to read as follows:

Section 78. Every bank or banking company, as defined by
2 this chapter, incorporated under the laws of this state may estab-
3 lish a branch or branches within the state of West Virginia and
4 carry on and exercise through such branch or branches the same
5 business and powers which such bank or banking company is au-
6 thorized by the laws of this state to carry on at its principal
7 banking house and place of business. *Provided*, that no such
8 bank or banking company can establish such branch or branches
9 except when duly authorized by the affirmative vote of at least
10 two-thirds of the stock of said bank taken at an annual or regu-

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11 larly called meeting of stockholders. Every such bank may exer-
12 cise, under the laws of this state, all such incidental powers as
13 may be necessary to carry on the business of banking, by discount-
14 ing promissory notes, negotiating drafts, bills of exchange and
15 other evidences of indebtedness, receiving deposits, buying and
16 selling exchange, bank notes, bullion or coin, and by loaning money
17 on personal or other security. It shall be unlawful for any indi-
18 vidual or association of individuals doing business in this state
19 to use in connection with such business the term "bank," "banker,"
20 "banking company," or "trust company," or receive deposits, or
21 sell foreign exchange, until they shall have taken out a charter
22 and complied with the statutes governing banks and trust com-
23 panies. Hereafter no charter shall be issued to any bank to do
24 business in this state until the application therefor has been ap-
25 proved in writing by the commissioner of banking; and no real
26 estate shall be carried upon the books of any bank at a value
27 greater than the assessed value as shown by the land books of the
28 county wherein such real estate is assessed. No bank shall hold
29 or convey real estate except for the following purposes:

30 (1) Such as shall be necessary for its immediate accommo-
31 dation in the transaction of its business.

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32 (2) Such as shall be mortgaged to it in good faith by
33 way of security for debts contracted.

34 (3) Such as shall be conveyed to it in satisfaction of debts
35 previously contracted in the course of its dealings.

36 (4) Such as it shall purchase at sales under judgments,
37-38 decrees, deeds of trust or mortgages held by the association, or
39 shall purchase to secure debts due it, which it shall dispose of at
40 the earliest practicable date.

41 Any person violating the provisions of this section shall be
42 deemed guilty of a misdemeanor, and on conviction thereof shall
43 be fined not less than five hundred dollars nor more than one
44 thousand dollars, or be confined in the county jail for a period
45 not exceeding six months, or both, at the discretion of the court,
46 for each and every offense.

House Bill No. 428

(By MR. HUGUS.)

[Introduced January 25, 1921; referred to the Committee on Military Affairs.]

House Bill No. 428

A BILL to re-organize and to promote the efficiency of the West Virginia national guard, and to bring the military laws of the state into conformity with the laws of the United States.

Be it enacted by the Legislature of West Virginia:

Section 1. That the governor of this state is authorized to re-organize the national guard of West Virginia under the provisions of the National Defense act, of June third, one thousand nine hundred and sixteen, and amendments thereto. He shall appoint an adjutant general under whose direction the national guard shall be re-organized and maintained. That the adjutant general shall receive an annual salary not to exceed three thousand six hundred dollars and expenses. No person shall be appointed adjutant general who has not had at least two years military experience in the national guard of the United States army.

Sec. 2. That hereafter no appointments shall be made of any staff officers (including pay, inspection, subsistence and medical departments) unless such appointees shall have had previous military experience, and they shall hold their appointments until
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5 they shall have reached the age of sixty-four years, unless relieved prior to that time by reason of resignation, disability or
6 for cause to be determined by a court-martial legally convened
7 for that purpose. Vacancies among such officers shall hereafter
8 be filled by appointment from the officers of the national guard
9 of this state.

Sec. 3. The governor of this state is authorized to issue such regulations governing the appointments of officers in the national guard of this state and such other matters pertaining to the national guard as may be necessary in order to conform to the requirements made by congress for participation in federal appropriations for the national guards.

Sec. 4. The maximum to be expended by the state for the building or purchase of an armory for a single organization shall not exceed twenty-five thousand dollars and eight thousand dollars additional for each organization or headquarters provided for. The adjutant general may allow a sum not to exceed one thousand dollars for the furnishing and equipping of each armory so built or purchased, and in no city shall more than one building be erected or purchased until provisions have been made for all organizations therein. A sum of not to exceed eight

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hundred dollars per annum in villages, and one thousand dollars per annum in cities, shall be allowed to each organization to cover armory rent, heat, light, water and janitor service, amount to be determined by the adjutant general and all sums expended for said purposes to be approved and paid by the adjutant general upon vouchers properly certified.

Sec. 5. The adjutant general shall give bond in the sum of thirty thousand dollars to the state of West Virginia conditioned upon the faithful performance of his duties.

Sec. 6. The adjutant general shall cause an inventory to be made of all unexpendable military property of each organization of the national guard which is purchased from state funds or otherwise belongs to the state and a separate inventory of the property received from the federal government. Said inventories shall be kept on file in the office of the adjutant general and shall be open to public inspection during regular office hours. Additions to or deductions from said inventories shall be made from time to time so that each of said inventories shall at all times set forth a correct list of all property owned by or in possession of each organization of the national guard. Whenever

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deductions are made from such inventories, the time and manner of the disposition of the property shall be entered.

Sec. 7. Whenever it is ascertained by the adjutant general or the auditor of state that any officer of the national guard is unable to properly account for the property or moneys in his possession he shall give immediate notice thereof to the attorney general for action against such officers and his bondsmen, and the attorney general is hereby authorized and required to bring such action.

Sec. 8. All officers appointed and commissioned in the

2 West Virginia national guard according to law, whether extend-
 3 ed federal recognition or not, are authorized to administer the
 4 dual oath of enlistment to enlisted men as prescribed by section
 5 five thousand one hundred and eighty-one and five thousand one
 6 hundred and eighty-six of the general code.

Sec. 9. All acts of the legislature inconsistent herewith, are
 2 hereby repealed.

House Bill No. 511

(By Mr. BARNES)

[Introduced January 26, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 511

A BILL to amend chapter twenty-nine of the code of West Virginia
 by adding thereto an additional section authorizing the separate
 assessment of undivided interests in lands to the respective own-
 ers, and validating former assessments of such interests.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-nine of the code of West Virginia be amended
 by the addition thereto of another section, to-wit, section one hundred
 and thirty-six, as follows, to-wit:

Section 136. Wherever in this chapter the words land or lands
 2 are used, they shall be read to include undivided interests in lands,
 3 and such interests may at the election of any owner of such be
 4 by the assessor charged to such owner on the land books separately
 5 to each owner according to his interest, and be subject to all the
 6 provisions of this chapter in relation to assessments as now apply
 7 to entire tracts. And any such assessments heretofore made upon
 8 which the taxes have been duly paid, or which have been as such
 9 returned delinquent or sold by the sheriff for taxes, shall, so far
 10 as the state is concerned, be treated and held as valid and sufficient,
 11 and in such case any and all title which has or may have be-

12 come vested in the state because of any forfeiture or sale of any
 13 such interest because so assessed, shall be vested in the party who
 14 would have had the title and been entitled to said interest if this
 15 section had been in force when such assessment was made.

House Bill No. 342

(By MR. McCLINTIC, of Greenbrier.)

[Introduced January 24, 1921; referred to the Committee on Immigration and Agriculture.]

Houss Bill No. 342

A BILL to regulate the selling, offering or exposing for sale of agricultural seeds in this state, and providing penalties for the violation thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. The term agricultural seeds or agricultural seed
 2 as used in this act shall include the seeds of Canada blue grass,
 3 Kentucky blue grass, brome grass, fescues, kaffir corn, millets, tall
 4 meadow oat grass, sorghum, sudan grass, timothy, alfalfa, soy
 5 beans, alsike clover, crimson clover, red clover, white sweet clover,
 6 yellow sweet clover, Canada field peas, cow peas, vetches and other
 7 forage plants and other grasses, buckwheat, flax, rape, barley,
 8 corn, oats, rye, wheat and other seeds which may be defined by the
 9 West Virginia agricultural experiment station as agricultural
 10 seeds as shall be construed to mean such seed when sold, or of-
 11 fered or exposed for sale, or had in possession with intent to sell,
 12 variety or strain.

Sec. 2. The owner or person in possession of each and every
 2 package, parcel or lot of agricultural seeds as defined in section
 3 one of this act which contains one pound or more of such agri-

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4 cultural seeds, whether in package or in bulk, shall affix thereto in
 5 a conspicuous place on the exterior of the container of such agri-
 6 cultural seeds a written or printed label in the English language
 7 in legible type or copy not smaller than eight point heavy gothic
 8 caps, such label containing a statement specifying:

9 First. The commonly accepted name of the kind or kinds of
10 such agricultural seed; if the name of the special variety or strain
11 of such seed is used, it must be the true name of such special
12-13 variety or strain.

14 Second. The approximate percentage of germination of such
15 agricultural seed together with the date of test of germination.

16 Third. The approximate percentage by weight of each of the
17 following seeds: quack grass (*agropyron repens*), Canada thistle
18 (*carduus arvensis*), perennial sow thistle (*sonchus arvensis*), and
19 dodder, species of *cuscuta*, wild onion (*allium vineale*), Bermuda
20 grass (*capriola dactylon*), Johnson grass (*holcusholepenis*), hawk
21 weed (*hieracium* spp.) buckhorn (*plantago lanceolata*), Russian
22 thistle (*salsold tragus* L.), English charlock or wild mustard
23 (*brassica arvensis*, L.), wildoats (*avenafatua*), corn cockle (*lychnis*
24 *githago*), ox-eye daisy (*chrysanthemum leucanthemum*), Indian
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25 mustard (*brassica juncea*), butter and eggs (*linaria linata*), vel-
26 vet weed (*abutilon abutilon*), star thistle (*centaura repens*) wild
27 carrot (*daucus carota*), if any such are found in su hcagricultural
28 seed.

29 Fourth. The approximate percentage by weight of pure seed in
30 such agricultural seed.

31 Fifth. If grown in this state the words, "grown in West Vir-
32 ginia" and in case of corn, the county in which grown, if imported
33 into this state, the name of such state or country from which it
34 was imported.

35 Sixth. The full name and address of the seedsman, importer,
36 dealer or agent or other persons or person, firm or corporation
37 selling, offering or exposing the said agricultural seed for sale.

Sec 3. The provisions concerning agricultural seed contained
2 in this act shall not apply to:

3 First Any person selling agricultural seeds to be cleaned, or
4 graded before being offered for sale for the purpose of seeding and
5 plainly marked on the outside of the container "not cleaned seed."

6 Second Agricultural seed marked plainly on the outside of
7 container, "not cleaned" and held or sold for export only.

8 Third. Lawn-grass mixtures shall not be exempt, however,

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9 by the vendor of such mixtures from the provisions of section
10 two, subdivisions second, third, fourth and sixth.

Sec 4. Any person, firm or corporation who sells, offers or ex-

2 poses for sale or distribution in this state any agricultural seeds
3 for seeding purposes without complying with the requirements of
4 this act shall be guilty of a misdemeanor and upon conviction shall
5 be fined not less than ten dollars and the costs of such prosecu-
6 tion, nor more than one-hundred dollars and the costs of such
7 prosecution, and upon the second or any subsequent offense shall
8 not be fined less than one-hundred dollars and the costs of such
9 prosecution nor more than five-hundred dollars and the costs of
10 such prosecution.

Sec. 5. The words "person" and "sell" shall be construed as
2 follows: "Person" shall refer to any person, firm or corporation
3 or their agents; "sell" shall mean to sell, barter or trade or ex-
4 change for anything of value.

Sec. 6. The West Virginia agricultural experimentl station
2 shall inspect, examine, and make analysis of and test seeds sold,
3 offered or exposed for sale in the state at such time and places
4 and to such extent as it may determine. The said West Virginia
5 agricultural experimental station may appoint such agents as may
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6 be deemed necessary to carry out the provisions of this act, and
7 said West Virginia agricultural experimental station or agents
8 shall have free access at all reasonable hours upon and into any
9 premises of the owner of such seeds or on other premises, or in
10 the possession of any warehouse, elevator, steamship or railway
11 company; and upon the tendering of payment therefor at the cur-
12 rent value, may take ay such seeds.

Sec. 7. The salaries of such agents as may be appointed to
2 carry out the provisions of this act, shall be fixed and paid by the
3 West Virginia agricultural experimental station in the same
4 manner as are the other employees thereof.

Sec. 8. Any citizen of the state of West Virginia may, in ac-
2 cordance with the regulations prescribed by the West Virginia
3 agricultural experimental station, and by pre-paying the trans-
4 portation charges, send a sample or samples of seed to said West
5 Virginia agricultural experimental station for examination, analy-
6 sis tests and such analysis, examinations and tests shall be re-
7 ported upon free of charge.

Sec. 9. The certificate of the West Virginia agricultural ex-
2 perimental station giving results of any examination, analysis or
3 tests of any seed sample made under the authority of said West

4 Virginia agricultural experimental station shall be presumptive
5 evidence of the facts therein stated.

Sec. 10. When said West Virginia agricultural experimental
2 station shall find by its examinations, analysis or tests, that any
3 person, firm or corporation has violated any of the provisions
4 of this act, it shall transmit facts so found to the attorney general
5 or to the county prosecuting attorney of the county in which the
6 offense was committed.

Sec. 11. It shall be the duty of the attorney general and the
2 county prosecuting attorney to prosecute all persons violating any
3 of the provisions of this act, when evidence thereof has been pre-
4 sented by the said West Virginia agricultural experimental sta-
5 tion.

Sec. 12. The said West Virginia agricultural experimental
2 station shall make an annual report to the governor of the state
3 of West Virginia upon the work done under this act and shall
4 publish the same in pamphlet form.

Sec. 13. There is hereby appropriated from the state treasury
2 out of any moneys not otherwise appropriated five thousand dol-
3 lars or so much thereof as may be necessary for this and each suc-
4 ceeding fiscal year. If it is shown to be necessary the legis-
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5 lature shall appropriate in addition to this amount such other
6 amounts as may be necessary for the carrying out the provisions
7 of this act.

Sec. 14. This act shall take effect and be in force from and
2 after July first, one thousand nine hundred and twenty-one.

3 All other acts inconsistent with this act are hereby repealed.

House Bill No. 388

(By MR. McCLINTIC, of Kanawha)

[Introduced January 25, 1921; referred to the Committee on
Game and Fish.]

House Bill No. 388

A BILL providing for the creation of a game and fish commission
for the state of West Virginia, a forestry commissioner for
the state of West Virginia, providing for the appointment of

game and fish commissioners, a secretary for said commission, and a forestry commissioner, and defining their duties and authorities and empowering them to appoint game and fish protectors and forestry protectors, and providing for the game and fish licenses, the collection of moneys in payment therefor, and the establishment of a game and fish fund, and amending and re-enacting laws of West Virginia relating to game and fish in chapter sixty-two, code of one thousand nine hundred and eighteen, and as amended by chapter fifty-two, act of the legislature of one thousand nine hundred and nineteen, and the application and enforcement thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. All acts or parts of acts inconsistent or conflicting herewith are hereby repealed.

Sec. 2. The governor of the state of West Virginia is hereby authorized and required to appoint four competent citizens of

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3 this state to be and act as a board of game and fish commissioners, no two of whom shall be from the same senatorial district; and shall upon said appointment designate which one of said persons shall receive and hold office during the term of one year, which one of said persons shall receive and hold office during the term of two years, which one of said persons shall receive and hold office during the term of three years, and which one of said persons shall receive and hold office for the term of four years.

12 Upon the death, resignation or removal from office of any person so appointed as aforesaid, the governor shall appoint a competent person to serve for the unexpired term of the person so dying, resigning or removed; upon the expiration of the term of officers so appointed and designated under the provisions of this act, their successors shall be appointed by the governor as aforesaid for the term of four years, so that there shall not be more than one vacancy at any one time in such commission, and the term of one commissioner shall expire thereafter each year. The commissioners shall receive no compensation for their services, except mileage and expenses necessarily incurred in discharge of their duties as hereinafter provided.

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Sec. 3. The board of game and fish commissioners shall have

2 an office in the capitol and shall hold meetings at such office
3 on the first Thursdays of January and July each year, and at
4 such other times and places within the state as the commissioners
5 may appoint for the transaction of business. At the first meet-
6 ing of the said board they shall choose one of their members as
7 the president thereof, who being three-fourths of the members
8 of the commission duly authorized thereunto, shall act for and
9 in behalf of the said board. He shall hold his office as president
10 for and during the period of one year next succeeding his ap-
11 pointment as president.

12 The board of game and fish commissioners shall appoint a
13 competent secretary for the board of game and fish commis-
14 sioners, whose term of office shall be for the period of
15 years from the time of his appointment and until his successor
16 is appointed, who may properly discharge the duties devolving
17 upon said board as hereinafter designated. The secretary shall
18 be and remain such during the pleasure of the said board and
19 subject to the direction, supervision and control of the board
20 of game and fish commissioners, may discharge the duties de-
21 volving upon the said board as hereinafter defined. He shall

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22 occupy as his permanent headquarters the rooms assigned to the
23 board of game and fish commissioners at the capitol; he shall
24 have authority to have printed from the funds hereinafter pro-
25 vided for, the annual report to the governor of the board of
26 game and fish commissioners, and such other bulletins as in the
27 opinion of said board may be necessary to its said work; he shall
28 make report each month to the said board of the duties performed
29 by all game and fish protectors and the discharge of the duties
30 devolving upon those who are under the direction, supervision
31 and control of the said board and all the actions of the said board.
32 It shall be the duty of the said secretary to collect, classify and pre-
33 serve all such statistics, data and information as in his judg-
34 ment and in the judgment of the said board and at their direc-
35 tion and under their control as will tend to promote the objects
36 of this act. He shall take charge of and keep for the said board
37 all reports, books, papers and documents which shall in the dis-
38 charge of the duties of said board come into their possession or
39 under their control. He shall keep proper records of licenses
40 issued for hunting and fishing purposes and of the collection and

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41 expenditure of funds derived therefrom.

Sec. 4. The board of game and fish commissioners shall have
2 charge, control and management of the propagation and dis-
3 tribution of game and fish throughout the state of West Vir-
4 ginia. It shall have charge of the collection and diffusion of
5 such statistics, literature and information as they may deem
6 useful in regard to the protection and propagation of game and
7 fish and the publication thereof; it shall have authority to in-
8 stitute any and all proper legal proceedings to enforce the pro-
9 visions of law now in force or hereinafter enacted in reference to
10 game and fish, and it shall be the duty of the board to enforce
11 by proper legal action or proceeding the laws of the state for the
12 protection, preservation and propagation of such birds, animals
13 and havens for the propagation of fish and game, and so far
14 as funds are provided therefor to adopt and carry into effect
15 such measures as the board deems necessary in the performance
16 of its duties. It may acquire by gift, purchase or capture, for
17 distribution and stocking within the state of West Virginia, both
18 game quadrupeds, game birds and game fish as defined or affected
19 by the provisions of the game laws of this state, may care for
20 the same temporarily and liberate them in such regions and at
21 such times and places as it deems most conducive to their proba-

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22 ble subsistence and increase. The said board may remove, per-
23 mit or cause to be removed from public or private waters fish
24 which hinder or prevent the propagation of game fish. It may
25 purchase fish eggs, fingerlings and young fish for the purpose of
26 distributing and stocking the streams of this state and it may dis-
27 tribute or cause to be distributed under its supervision and con-
28 rol fish to stock the streams of this state. It may cause to be
29 erected and maintained fish hatcheries within the state for the
30 breeding and raising of fish to stock the streams of this state.
31 *provided, however,* expenditures in that behalf shall not exceed
32 twenty-five per cent of the annual income of the "game and fish
33 protective fund."

34 All moneys collected for fines, license tax or otherwise and
35 due the state under and by virtue of the provisions of the game
36 and fish laws or of this chapter shall be disposed of as follows:

37 The net proceeds of all fines collected from convictions for

38 the violation of any section of the game and fish law or of this
39 chapter, required to be paid into and credited to the "school
40 fund" of the state as provided by the constitution, shall be paid
41 into that fund, but three-fourths of the moneys accruing from
42 fines, license tax or otherwise, which are not specifically di-
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43 rected to be paid into the school fund by the constitution of the
44 state, by virtue of any provision of the game laws, shall be
45 paid into the state treasury and credited to the game and fish
46 protective fund, and the same shall be applicable to the payment
47 of the expenses of inaugurating, carrying out and maintaining
48 any and all of the purposes set forth in the game and fish laws
49 of this state as now amended and any other law relating to the
50 protection and propagation of game and fish, and under the su-
51 pervision, direction and control of said board; the remaining
52 one-fourth of said moneys shall be paid into the "forestry fund"
53 hereinafter provided for, to be applicable to the payment of the
54 expenses of inaugurating, carrying out and maintaining any and
55 all of the purposes relating to the forestry commission and re-
56 lating to the protection of forests as provided by law, to be
57 paid out upon the requisition of the forestry commissioner here-
58 inafter provided for, upon approval by the governor, for which
59 said purpose the said game and fish protective fund and said
60 forestry fund are hereby appropriated; *provided, however*, pay-
61 ments shall not be made from said game and fish protective fund
62 except upon the approval thereof by the board of game and fish
63 commissioners, by its president.

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Sec. 5. The board of game and fish commissioners shall have
2 all the authorities, rights and powers heretofore exercised by or
3 conferred upon the forest game and fish warden of the state of
4 West Virginia, except as relates to forests, and the said office of
5 forest game and fish warden is hereby abolished and all the pow-
6 ers, rights and duties theretofore conferred and delegated to
7 that office are conferred and delegated to the board of game
8 and fish commissioners insofar as they apply to game and fish;
9 and wheresoever the words "forest game and fish warden" are
10 used in chapter sixty-two of the code of one thousand nine hun-
11 dred and eighteen, and as amended by chapter fifty-two of the
12 acts of the legislature of one thousand nine hundred and nineteen,

13 the same shall be taken and held to be from and after the passage
 14 of this act to be and mean the "board of game and fish com-
 15 missioners", except insofar as such provisions therein relate to
 16 the forests of the state of West Virginia, and insofar as the
 17 duties heretofore exercised by the forest game and fish warden,
 18 the same is delegated to and shall be taken to be hereafter the
 19 forestry commissioner.

Sec. 6. All of the duties, rights and powers heretofore con-
 2 ferred upon and exercised by the said forest game and fish
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3 warden in matters pertaining to the forests of this state are
 4 hereby conferred upon and delegated to the commissioner of
 5 agriculture, and he is authorized, empowered and directed to
 6 appoint a chief deputy who shall be known as "forestry com-
 7 missioner." The said forestry commissioner shall hold his office
 8 during the pleasure of the commissioner of agriculture and shall
 9 be paid an annual salary of \$....., the said
 10 commissioner of agriculture may appoint not more than
 11 deputy forestry commissioners, who shall have all of the rights,
 12 powers and authorities heretofore exercised by deputy forest
 13 game and fish wardens in matters pertaining to forests. They
 14 shall be paid the sum of \$..... per year. The
 15 control and expenditure of the funds heretofore provided for,
 16 pertaining to forests, shall be in the commissioner of agriculture,
 17 subject to the approval of the governor.

Sec. 7. The board of game and fish commissioners shall have
 2 the power and authority to appoint competent men,
 3 if so may be needed in the judgment of the board, to discharge
 4 the duties devolving upon said board, whose powers and duties
 5 shall be as hereinafter defined, and shall include all the powers,
 6 duties and authorities heretofore exercised by deputy forest game

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7 and fish wardens insofar as they pertain to game and fish.
 8 They shall be known as "game and fish protectors." The said
 9 number shall include such men as may be appointed game and
 10 fish protectors and detailed to office duty. The said board shall
 11 from time to time designate one of such protectors as chief game
 12 and fish protector, who shall remain such during the pleasure of
 13 the board and who shall have the direction, supervision and con-
 14 trol of the other protectors subject, however, to the rights of the

15 board of game and fish commissioners. He shall occupy as his
16 permanent headquarters the rooms assigned to the game and fish
17 commissioners at the capitol.

18 The game and fish protectors so appointed shall hold office
19 during the pleasure of the board of game and fish commissioners,
20 which may summarily remove any of their number and appoint
21 another in his place. The game and fish protectors shall enforce
22 all of the game and fish laws of the state and the provisions
23 supplementary thereto and shall have full power to execute all
24 warrants and search warrants issued for the violation of the
25 game and fish laws, and to serve subpoenas issued for the exam-
26 ination, investigation or trial of all offenses against said laws;
27 each protector shall keep a record of his official acts, receipts and
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28 expenditures and at the close of each month make a summary of
29 said record with such statement in detail as shall be necessary for
30 the information of his chief and report the same to the chief pro-
31 tector under oath. The chief protector shall report to the board
32 of game and fish commissioners any negligence or dereliction of
33 duty or incompetency on the part of any of the protectors with
34 the facts relating thereto, and shall report monthly to said board
35 the operations of the department during the preceding month
36 and shall make such other report as may be required by the
37 board of commissioners.

38 The secretary of the board of game and fish commissioners
39 shall receive for his service the sum of \$. every
40 year to be paid out of the treasury quarterly, after being duly
41 audited, and shall be allowed a mileage of five cents a mile while
42 traveling by railroad or steamboat, and ten cents a mile while
43 traveling otherwise than by railroad or steamboat, for the dis-
44 tance necessarily traveled while actually in the discharge of his
45 official duties as such secretary; *provided, however*, that the mile-
46 age expenses of said secretary shall be reported quarterly under
47 oath to the board and approved by it; and *provided, further*, that
48 such mileage expenses shall not in any one year exceed six hun-

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49 dred dollars. Said secretary shall devote all of his time to the
50 discharge of the duties of his office imposed upon him by law or
51 by the board. The said members of the board of game and fish
52 commissioners shall be allowed mileage of ten cents per mile and

53 the actual expenses incurred while actually engaged in the dis-
54 charge of their duties imposed upon them by the board or by
55 the law. The said chief game and fish protector shall receive
56 for his services the sum of \$. per year to be
57 paid out of the treasury quarterly, after being duly audited and
58 shall be allowed a mileage of five cents a mile while traveling by
59 railroad or steamboat, and ten cents a mile while traveling other-
60 wise than by railroad or steamboat, for the distance necessarily
61 traveled while actually in the discharge of the duties imposed upon
62 him by law or by the board, and he shall devote all of his time
63 to said duties; such mileage expenses shall be reported quarterly
64 under oath to the secretary and approved by him and forwarded
65 to the board and approved by it; *provided, however*, that said mile-
66 age in any one year shall not exceed six hundred dollars; and the
67 said game and fish protectors shall receive for their services
68 \$. a year, to be paid out of the treasury quarterly,
69 after being duly audited, and shall be allowed a mileage of five
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70 cents a mile while traveling by railroad or steamboat, and ten
71 cents a mile while traveling otherwise than by railroad or steam-
72 boat for the distance necessarily traveled, for the purpose of
73 performing the duties imposed upon them by law, and they shall
74 devote all of their time to their duties as game and fish pro-
75 tectors. They shall receive no compensation from the state other
76 than as herein provided, and all sums or parts of sums heretofore
77 allowed game wardens from fines imposed by virtue of the con-
78 victions, shall be paid into the game and fish protective fund and
79 forestry fund, except as hereinbefore provided.

80 The said secretary and the said chief game and fish protector
81 and the said game and fish protectors shall each before enter-
82 ing upon the discharge of their respective duties execute a bond
83 in the penalty of three thousand five hundred dollars, with se-
84 curity therein, to be approved by the board of game and fish
85 commissioners, and conditioned for the faithful performance of
86 their duties and to account for and pay over all moneys and
87 property coming into their hands due and belonging to the state,
88 and also conditioned according to the requirements of the present
89 law with reference to carrying of revolvers, which said bond,
90 after having been approved by the board, shall be deposited

91 with the auditor. Upon the appointment of a secretary, the
 92 chief game and fish protector, and the said game and fish pro-
 93 tectors and the giving of the bond by them respectively, they
 94 shall be entitled to carry a weapon as other officers under like
 95 bond are so entitled.

House Bill No. 126

(By Mr. Otto)

[Introduced January 19, 1921; referred to the Committee on
 Counties, Districts and Municipal Corporations.]

House Bill No. 126

A BILL authorizing and empowering the board of commissioners
 of the county of Ohio, in all cases where said board of com-
 missioners is required by law to maintain and keep up any
 street or highway within the limits of the city of Wheeling,
 in Ohio county, to pave or cause to be paved any such street
 or highway within the city of Wheeling, and authorizing said
 board of commissioners of the county of Ohio to assess portions
 of the cost of such paving against the owners of property abut-
 ting any such street or highway, and to compel certain paving
 by the owner or owners of railways operating over such street
 or highway, as well as to authorize said board of commissioners
 to compel the owners of property along any such street or
 highway to pave and repair sidewalks in front of their proper-
 ties.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of commissioners of the county of Ohio,
 2 in all cases where said board of commissioners is required by
 3 law to maintain or keep up any street or highway within the
 4 corporate limits of the city of Wheeling, in Ohio county, is here-
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 5 by authorized and empowered to pave or cause to be paved
 6 any such street or highway with brick, stone, asphalt or other
 7 suitable materials, under such regulations as said board of
 8 commissioners may fix by resolution, upon the lowest and best

9 terms to be obtained by advertisement for bids or proposals
10 therefor by the said board of commissioners; or the said board
11 of commissioners may have such work done without the inter-
12 vention of contractors or middlemen; and in all sections along
13 any such street or highway that are built up or laid out in
14 lots two-thirds of the cost of such paving shall be assessed
15 against the owners of real estate abutting or bounding that part
16 of the street or highway so paved in proportion to the distance of
17 frontage owned by each; and in all sections along any such
18 street or highway other than such as is built up or laid out in
19 lots; twenty per cent of the cost of such paving shall be assess-
20 able against the owners of real estate abutting or bounding
21 any such street or highway; *provided*, that in all cases where
22 a railway of any kind is being operated upon any such street
23 or highway as is mentioned in this act, the railway company
24 or owner of such railway shall, upon thirty days notice in
25 writing from the said board of commissioners of the county of
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26 Ohio, pave with like material and in like manner as the said
27 board of commissioners paves the residue of such street or high-
28 way, or pay for the new paving if done by the said board of
29 commissioners, between the rails and a foot outside of the rails,
30 and the residue of the space between the tracks where more
31 than one track are on the street or highway, and the remainder
32 of the cost of paving to be borne by the said board of com-
33 missioners of the county of Ohio, and the owners of real estate
34 abutting such street or highway in the proportions herein al-
35 ready set forth; street intersections to be paved by the said
36 board of commissioners at the expense of the county of Ohio,
37 but where the intersection is crossed by a railway track or
38 tracks of any kind, the railway company or owner of such tracks
39 shall pay for the paving of so much of such intersection as is
40 between the rails and one foot outside of such rails, as well as
41 the residue of the space between double tracks.

42 In case two street railway tracks belonging to different own-
43 ers are on any such street or highway, the cost of paving between
44 such tracks shall be paved one-half by the owner or owners
45 of each of such tracks.

46 The sum or sums of money thus assessed for paving shall be
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47 a lien on the lots or fractional part of lots or other real
48 estate upon which they are assessed, which lien may be en-
49 forced by a suit in equity in the name of the board of com-
50 missioners of the county of Ohio, in the circuit court of Ohio
51 county, West Virginia, or the same or any installment thereof,
52 may be collected by a suit at law before such court, or before
53 any justice of the peace of said county if the amount involved
54 does not exceed three hundred dollars, exclusive of interest and
55 costs.

56 Immediately upon the completion and acceptance of any such
57 paving the said board of commissioners shall direct the clerk
58 of said board to cause to be published a notice, which shall
59 name and describe the location of the portion of the street
60 or highway upon which such paving shall have been constructed;
61 give the name or names of the owners of real estate abutting
62 or bounding upon such portion of the street or highway, if
63 known, and if the name or names of the owner of any of
64 such real estate are unknown, such real estate shall be described
65 with reasonable certainty in order that the same may be iden-
66 tified; and the number of feet that each owner of real estate
67 abutts upon such paved portion, as well as the amount assessed
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68 against each abutting property, for the cost of the paving.
69 Said notice shall cite all owners of real estate abutting upon
70 the portion of the street which has been paved, to appear
71 before said board of commissioners at a regular meeting there-
72 of, within thirty days from the first publication of the notice,
73 and show cause, if they can, why the assessment aforesaid shall
74 not become final, which notice shall be published once a week
75 for two successive weeks in one or more newspapers of gen-
76 eral circulation published in Ohio county. The said board
77 of commissioners shall, upon the request of any one or more
78 of the owners of said real estate, appoint a day to hear the
79 grievances of said owner or owners, and may alter or amend
80 any assessment made against any one or more of said owners.
81 The clerk of said board of commissioners shall give notice
82 to all persons claiming to be injured by said assessment, of
83 the time and place of holding the meeting of the board of
84 commissioners to hear such grievances, which meeting shall be
85 held within ten days after the clerk shall have given the last

86 mentioned notice. The board of commissioners may adjourn
87 the hearing from time to time. In case any owner or owners
88 of abutting property fail within such thirty days to complain

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89 to the said board of commissioners of any grievance or injury
90 they may have suffered by reason of the assessment aforesaid,
91 or to appear before the board of commissioners for the pur-
92 pose of having the same corrected on the day appointed by
93 the board of commissioners for the hearing of such grievances
94 as have been complained of, the assessment as laid shall be
95 final. The findings of said board of commissioners shall be
96 subject to correction by the circuit court of Ohio county, upon
97 appeal, which must be taken and perfected within thirty days
98 from the finding and be heard and determined by such court
99 without delay, having precedence of other cases on the court's
100 docket. The rights conferred by this section are cumulative
101 and shall not be exhausted as to any particular street or highway
102 by reason of having been once exercised.

103 One-tenth of the amount assessed against the abutting prop-
104 erty owner of the cost of the paving shall be paid within one
105 year after the completion and acceptance of the work by the
106 said board of commissioners, and the remaining nine-tenths
107 thereof shall be paid in nine equal annual installments, with
108 interest, payable annually, at such times as county taxes for
109 other purposes are collected.

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110 When the board of commissioners does the paving that is
111 required to be done by the traction companies under the pro-
112 visions of this act, upon completion and acceptance of the work
113 by the board of commissioners, the amount of the cost thereof
114 shall be due and payable, and the board of commissioners may
115 recover the same by an action at law.

116 But lien upon any real estate created by virtue of this act
117 shall be void as to any purchaser of any such real estate unless
118 the said board of commissioners shall, within sixty days after
119 the completion and acceptance of the paving by the board of
120 commissioners, cause to be recorded in the office of the clerk
121 of the county court of Ohio county an abstract of such assess-
122 ment, giving the location of the real estate affected, the name
123 of the owner and the date and amount of the assessment, which

124 recordation shall be in a well bound book to be furnished by
125 the board of commissioners and be preserved in said clerk's
126 office.

127 And it is hereby made the duty of the said county clerk
128 to record said abstracts; for the recordation of each of which
129 said clerk shall receive a fee of twenty-five cents to be paid by
130 the board of commissioners.

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Sec. 2. The board of commissioners of the county of Ohio
2 may by resolution establish sidewalks and the width thereof,
3 along any street or highway within the corporate limits of the
4 city of Wheeling, Ohio county, which the said board of com-
5 missioners is by law required to maintain and keep up, and cause
6 to be set or reset the curbing thereon, and require that when
7 any such street or highway or part thereof shall be prepared by
8 the said board of commissioners for the laying of sidewalks,
9 by setting of curbstones, and by grading the sidewalk space,
10 either by filling or cutting, as the case may require, the owner
11 or owners of any ground fronting on such sidewalks adjacent
12 to their property shall be required to pave or repave the same;
13 and in case of the failure or refusal of such owners so to do,
14 the board of commissioners may cause same to be properly paved
15 or repaved by others than such owner or owners, and levy and
16 collect from such owner or owners the cost of the paving or re-
17 paving adjacent to his or their property, or where the cost can-
18 not be conveniently ascertained, levy and collect a special tax
19 to defray the expense of such paving or repaving upon the owner
20 or owners of such adjacent ground, who fail to pave or repave
21 as required, by an assessment upon each proportionate to the
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22 number of front feet which he shall own abutting on the side-
23 walk. The said board of commissioners shall have the power, by
24 resolution, in like manner, to require the owner or owners of
25 property adjacent to any paved sidewalk along any such street
26 or highway as is hereinbefore mentioned, to repair, and in de-
27 fault of his or their so doing, to cause the same to be repaired,
28 and assess the cost thereof against such owner or owners. It
29 shall be lawful for the officer authorized by the said board
30 of commissioners to collect and such tax or assessment for the
31 cost of such paving or repaving, to collect the same from the

owner or owners of such grounds at once by distress and sale and such assessment shall be a lien upon such adjacent property, which may be enforced as taxes assessed upon real estate for the benefit of Ohio county, and in addition to all other methods herein provided, any such assessment and cost of paving and repaving as is herein mentioned, may be collected by suit at law in the name of the board of commissioners of the county of Ohio.

The said board of commissioners may by resolution establish a date from which new or renewed sidewalks along any such street or highway as is herein mentioned must be made uniform

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as to width, material and construction, and shall by resolution fix standards of width, material and construction for paving and repaving such sidewalks.

Sec. 3. All acts and parts of acts in conflict with this act are hereby repealed.

House Bill No. 322

(BY MR. DOWNS)

[Introduced January 22, 1921; referred to the Committee on the Judiciary.]

Senate Bill No. 214

(BY MR. HENSHAW)

[Introduced January 24, 1921; referred to the Committee on the Judiciary.]

House Bill No. 322

A BILL to create and establish in the county of Berkeley a court to be known as the "Domestic Relations Court," and to define its jurisdiction.

Be it enacted by the Legislature of West Virginia:

Section 1. That there is hereby created and established in

2 and for the county of Berkeley, with authority and jurisdiction
 3 co-extensive with the county, a court to be known as the "do-
 4 mestic relations court" for the trial of divorce, annulment of
 5 marriage and alimony causes, the care and disposition of delin-
 6 quent and dependent children, and desertion and non-support of
 7 wives and children and for the enforcement of the general school
 8 laws, arising within the said county and coming within the juris-
 9 diction of the court as provided by the general laws of the state
 10 of West Virginia, and as hereinafter provided.

Sec. 2. The said domestic relations court shall have juris-
 2 diction within the said county of Berkeley, concurrent with the
 3 circuit court, of all matters and causes arising out of or per-
 4 taining to divorce, annulment of marriage, alimony, and the
 5 adjudication of property rights arising out of the same, and all
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 6 other causes coming within the purview of chapter one hundred
 7 and eleven of the acts of the legislature of West Virginia, session
 8 one thousand nine hundred and nineteen, commonly known as the
 9 juvenile act, of chapter one hundred and ten of the acts of the
 10 legislature of West Virginia, session of one thousand nine hundred
 11 and seventeen, and commonly known as the non-support act,
 12 and of chapter two of the acts of the legislature of West Vir-
 13 ginia, session one thousand nine hundred and nineteen, commonly
 14 called the general school law, and of all amendments and re-
 15 enactments of any of the said acts or parts thereof, and all
 16 other or further acts of the legislature touching the subject
 17 matter thereof. And that the proceedings and modes of proce-
 18 dure and power of jurisdiction conferred by law upon the cir-
 19 cuit court in any and all of said matters and causes are hereby
 20 conferred upon, and shall be exercised by said domestic relations
 21 and juvenile court.

Sec. 3. The governor of this state, on or before the first day
 2 of May, one thousand nine hundred and twenty-one, shall designate,
 3 appoint and commission a judge of said court, who shall be a resi-
 4 dent member of the bar and in good standing therein, of said
 5 county, who shall preside over said court and serve as such judge
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 6 until the first day of January, one thousand nine hundred and
 7 twenty-three. That at the general elections regularly held on Tues-
 8 day after the first Monday in November, one thousand nine hundred

9 and twenty-two, and thereafter at intervals of eight years, some
10 person qualified as aforesaid shall be elected in the manner pro-
11 vided by law for the election of circuit judges, to be the judge
12 of said court for the next ensuing term of eight years, begin-
13 ning on January first, next following such election. The judge
14 of said court may be removed from office for the same reasons
15 and in the same manner as judges of the circuit courts. And if
16 from any cause the office shall become vacant, the vacancy shall
17 be filled in the same manner as in the case of a vacancy in the
18 office of judge of the circuit court.

Sec. 4. The said judge of the domestic relations court of
2 Berkeley county shall, for his services, receive the sum of three
3 thousand dollars (\$3,000.00) per annum in monthly installments,
4 to be paid out of the county treasury of the said county of
5 Berkeley.

Sec. 5. It shall not be necessary in any cause or proceeding
2 in said domestic relations court that the facts authorizing it
3 to take jurisdiction of the case or proceedings should be set forth

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4 upon the record; but jurisdiction shall be presumed unless the
5 contrary plainly appear by the record.

Sec. 6. The domestic relations court shall have the same
2 powers to punish for contempt as are conferred upon the circuit
3 court by law.

Sec. 7. The judge of the circuit court of Berkeley county
2 may, in his discretion, certify to the said domestic relations and
3 juvenile court any portion of or all the divorce docket, suits
4 for the annulment of marriage, and suits for alimony pending in
5 said circuit court on the first day of May, one thousand nine hun-
6 dred and twenty-one, and all matters, suits, actions, petitions
7 and proceedings so certified to said domestic relations court by
8 said circuit court shall be docketed and thereafter proceeded with
9 therein according to law. The judge of the said circuit court, in
10 his discretion, may also direct the clerk of the said court to
11 docket all such matters, suits, actions, petitions and proceedings
12 as may be instituted on and after the first day of May, one thou-
13 sand nine hundred and twenty-one, either in said circuit court
14 or in said domestic relations court. And in the event of the
15 absence or disqualifications of either of said judges, any matter
16 coming within the purview of this act pending in either court,

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17 shall be certified to the other court, docketed therein and pro-
18 ceeded with according to law.

Sec. 8. For the purpose of maturing, docketing, hearing and
2 determining all matters, suits, petitions and other proceedings
3 properly determinable in said domestic relations court, and aris-
4 ing out of or relating to the administration of the laws of this
5 state relating to divorce, annulment of marriage and suits for
6 alimony, there shall be regularly continued and held four terms
7 of said court each year, beginning respectively on the first Mon-
8 day in March, June, September and December. Special terms
9 of said court may be called and held whenever in the discretion
10 of the judge of said court and public interest requires such
11 special terms, in the manner provided by law for the calling
12 and holding of special terms of circuit courts. The said judge
13 shall have jurisdiction and authority, in the vacation of said
14 court, to make and enter such proper orders in any matter,
15 suit, action, petition or proceeding pending in said court as the
16 judges of the circuit courts now have under the laws of this
17 state, and all matters arising under the jurisdiction of said court
18 other than divorce and annulment of marriage and alimony causes
19 may be heard and determined either in term time or in vacation

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20 of said court; *provided, however*, that proper notice be given
21 as provided by law for the particular case. And that the mode
22 of procedure in cases instituted in this court shall be the same
23 as that prescribed for the circuit courts of this state in similar
24 causes, and the court is hereby empowered to appoint such ad-
25 ditional officers, commissioners in chancery and jury commis-
26 sioners as shall enable the said court to discharge all the duties
27 required of it under the provisions of this bill and the general
28 laws of the state hereunder. And the judge of said court shall
29 have the power to make rules for the transaction of the business
30 of said court, provided the same are in conformity with the laws
31 of the state of West Virginia.

Sec. 9. The clerk of the circuit court of Berkeley county
2 shall act as and perform the duties as clerk of the said domestic
3 relations court, and shall exercise the same powers and duties
4 arising within the jurisdiction of said court as are performed
5 by him as clerk of the circuit court of said Berkeley county. All

6 processes, rules and orders of said court in the exercise of its
7 jurisdiction shall be signed by the clerk thereof, to be directed
8 to the sheriffs of the proper counties wherein the same are
9 executed. And they shall be executed in like manner and with
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10 the same effect as processess issuing from the circuit court of
11 said Berkeley county.

Sec. 10. The sheriff of Berkeley county and the sheriffs
2 of the several counties in the state shall, by themselves or their
3 deputies, execute all processes of said court, issued by the clerk
4 thereof, directed to them respectively, and all processes eman-
5 ating from said domestic relations and juvenile court shall be
6 directed to and executed by them in the same manner as is
7 provided by law as to processes issuing from the circuit court
8 by said clerk. And the sheriff of Berkeley county shall perform
9 the same duties and services for the domestic relations as he is
10 now by law required to perform for the circuit court of said
11 county; and in the execution of processes, rules and orders of
12 said court, the said officer shall have the same powers and rights,
13 by subjects to the same liabilities, govern himself by the same
14 rules and principles of lay and the statutes of the state, as though
15 the processes issued from the circuit court of said county.

Sec. 11. That for the proper and efficient administration and
2 enforcement of the matters within its jurisdiction, the judge of
3 the domestic relations court of Berkeley county shall be hereby
4 empowered to name the probation officer, who shall be appointed

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5 and qualified as provided by section six of chapter three, acts
6 of the legislature of West Virginia, session of one thousand nine
7 hundred and nineteen.

Sec. 12. It shall be the duty of the county court of Berkeley
2 county to provide all record books, other books and stationery that
3 may be necessary, and likewise a seal for said domestic rela-
4 tions court; but full faith and credit shall be given to the record
5 of said court and certificates of its judge or clerk, whether the
6 seal of the court affixed thereto or not, in like manner and with
7 the same effect as if the same were records of the circuit court
8 similarly authenticated. And the said county court of Berkeley
9 county shall furnish and provide sufficient rooms and furniture
10 for the proper conduct and holding of said court.

Sec. 13. Appeals may be allowed and writs of error and
 2 supersedeas awarded to the judgments, rulings and orders of the
 3 said domestic relations court or the judge thereof, by the circuit
 4 court of Berkeley county or the judge thereof, or the judge of
 5 any other circuit court in this state, in cases involving the free-
 6 dom of the person or the constitutionality of the law, and in case
 7 of the refusal of the circuit court of Berkeley county or the
 8 judge thereof, applications for such writ of error and super-
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9 sedeas or appeal may be directed to the supreme court of appeals;
 10 of the state or any judge thereof; *provided, however*, that in all
 11 cases such application shall be made within sixty (60) days next
 12 following the date of the entry of final order of judgment.

Sec. 14. All acts and parts of acts in conflict herewith are
 2 hereby repealed.

House Bill No. 48

(BY MR. MIDELBURG.)

[Introduced January 17, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 48

A BILL to amend section thirty-six of chapter one hundred and
 forty-five, of Barnes' code of West Virginia, of one thousand
 nine hundred and eighteen (chapter forty-three of the acts of
 the legislature of one thousand nine hundred and fifteen, regular
 session) which is an act relating to fraudulent advertising and
 fixing of penalties for the violation.

Be it enacted by the Legislature of West Virginia:

That section thirty-six of chapter one hundred and forty-five, of
 Barnes' code of West Virginia, of one thousand nine hundred and
 eighteen (chapter forty-three of the acts of the legislature of one
 thousand nine hundred and fifteen, regular session) which is an act
 relating to fraudulent advertising and fixing of penalties for the
 violation, be amended and re-enacted so as to read as follows:

Section 1. Any person, firm, corporation or association, or their

2 agents or employees, who with intent to sell, furnish or perform or
2-a in any way dispose of real or personal property, merchandise,
3 securities, services, or anything offered by such person, firm, cor-
4 poration or association, directly or indirectly, to the public for sale
5 or distribution, or with intent to increase the consumption thereof

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6 or to induce the public in any manner to enter into any obligation
7 relating thereto, or to acquire title thereto, or interest therein,
8 causes, directly or indirectly, to be made, published, disseminated,
9 circulated or placed before the public, in the state of West Virginia,
10 in a newspaper or other publication, or in the form of a book,
11 notice, handbill, poster, bill, circular, pamphlet or letter, or on
12 any bill board, sign card label or any other advertising medium,
13 or by means of any electric sign, window sign, show case, or win-
14 dow display, or by any other advertising device, or by public out-
15 cry or proclamation, or by any oral representation, or in any other
16 manner or means whatever, an advertisement or representation
17 of any sort regarding such real or personal property, merchandise,
18 securities, services, or anything so offered to the public, which
19 offering contains any assertions, representations or statements of
20 fact, which are false or untrue, in any respect, or which are de-
21 ceptive or misleading, shall be guilty of a misdemeanor and on con-
22 viction thereof, shall be punished by a fine of not less than twenty-
23 five dollars nor more than five hundred dollars, or imprisonment
24 for not more than sixty days, or both, and such violation, by agent
25 or employees shall be deemed an offense as well by the principal
26 or employer, provided such violation was committed with the
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27 knowledge or acquiescence of such principal or employer, and they
28 may be indicted for the same either jointly or severally; *provided*,
29 *however*, that this act shall not apply to any publisher of a news-
30 paper, magazine or other publication, who publishes said advertise-
31 ment in good faith, without knowledge of its false, deceptive or
32 misleading character. A corporation convicted under this act
33 shall be fined not less than twenty-five dollars nor more than five
34 hundred dollars and its president or such other official as may be
35 responsible for the conduct or management thereof may be im-
36 prisoned in the discretion of the court.

37 Indictment for such offense shall be sufficient, if it be in form or
38 effect as follows:

39 STATE OF WEST VIRGINIA,

40 COUNTY OFto-wit:

41 The grand jurors of the state of West Virginia, in and for the
 42 body of the county of, and now attending the.....
 43 court of said county, upon their oaths present that.....on
 44 the day of.....in the year of our Lord one thousand nine
 45 hundred andin the said county of.....
 46 being then and there engaged in the business of.....
 47 (stating nature of business), did unlawfully with intent to sell

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48 (stating whether
 49 merchandise, real estate or what) cause to be circulated in said
 50 county, and advertisement relating to the sale of said
 51 (same as above) of the words and figures as follows:

52 (here copy in full the advertise-
 53 ment), which said advertisement contained a statement of fact
 54 which was false in this that
 55 (stating specifically falsehoods, and wherein same are contrary
 56 to fact), with intent to induce the public to invest in said
 57, (stating whether
 58 merchandise, real estate or what) and that the said
 59 (name of defendants or defendants)
 60 being then engaged then and there in the said business aforesaid,
 61 afterwards, to-wit, on the day and year aforesaid, did then and
 62 there and by means thereby sell,
 63 (stating subject matter of sale) of the value of.....dollars,
 64 to one, (name of person
 65 to whom sale was made) and did then and there obtain from the
 66 said..... (name of person to whom
 67 sale was made) the sum ofdollars, against
 68 the peace and dignity of the state.

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Sec. 2. All acts or parts of acts inconsistent herewith are here-
 2 by repealed.

House Bill No. 117

(By MR. HUGUS.)

[Introduced January 19, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 117

A BILL to amend and re-enact section one-a of chapter one hundred and thirty-two of the acts of the legislature of the state of West Virginia, for the year of one thousand nine hundred and nineteen, entitled, An act to amend and re-enact section one, of chapter one hundred twelve, Barnes' code of one thousand nine hundred and sixteen; to repeal sections one-a-one, one-a-two, one-b-one, one-b-two, one-c-one, one-c-two, one-d-one, one-d-two, one-e-one, one-e-two, of chapter one hundred and twelve, Barnes' code of one thousand nine hundred and sixteen; to repeal chapter one hundred and twelve-a of Barnes code, one thousand nine hundred and sixteen; to repeal chapters eighty-seven, ninety-two, ninety-four, ninety-six, ninety-seven, one hundred and one, and one hundred and two of the acts of West Virginia, regular session of the legislature, one thousand nine hundred and seventeen; to re-arrange and establish the several judicial districts in this state; and to fix the terms and time of holding the circuit courts in the several counties therein.

Be it enacted by the Legislature of West Virginia:

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[H. B. No. 117

That section one-a of chapter one hundred and thirty-two of the acts of the legislature of West Virginia for the year nineteen hundred and nineteen, entitled, An act to amend and re-enact section one of chapter one hundred twelve, Barnes' code of one thousand nine hundred and sixteen; to repeal sections one-a-one, one-a-two, one-b-one, one-b-two, one-c-one, one-c-two, one-d-one, one-d-two, one-e-one, one-e-two, of chapter one hundred and twelve Barnes' code of one thousand nine hundred and sixteen; to repeal chapter one hundred and twelve-a of Barnes' code, one thousand nine hundred and sixteen; to repeal chapters eighty-seven, ninety-two, ninety-four, ninety-six, ninety-seven, one hundred and one, and one hundred and two of the acts of West Virginia, regular session of the legislature, one thousand nine hundred and seventeen; to re-arrange and establish the several judicial districts in this state; and to fix the terms and time of holding the circuit courts in the several counties therein, be and is hereby, amended and re-enacted so as to read as follows:

First Circuit.

Section 1-a. For the year one thousand nine hundred and 2 twenty-one. For the county of Ohio, on the first Monday in

3 April, and on the first Monday in September; for the county of
 4 Brooke on the first Monday in March, the first Monday in June,
 H. B. No. 117] 5

5 and the first Monday in November; for the county of Hancock, on
 6 the Tuesday next after the first Monday in March, the Tuesday
 7 next after the first Monday in June, and the Tuesday next after
 8 the first Monday in November.

9 From and after January first, one thousand nine hundred and
 10 twenty-two. For the county of Ohio, on the first Monday in
 11 January, the first Monday in April, and the first Monday in
 12 September; for the county of Brooke, on the first Monday in
 13 March, the first Monday in June, and the first Monday in Novem-
 14 ber; for the county of Hancock; on the Tuesday next after the
 15 first Monday in March, the Tuesday next after the first Monday
 16 in June, and the Tuesday next after the first Monday in Novem-
 17 ber.

House Bill No. 147

(By MR. STROTHER.)

[Introduced January 19, 1920; referred to the Committee on the
 Judiciary.]

Senate Bill No. 59

(By MR. SANDERS.)

[Introduced January 18, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 147

A BILL to amend and re-enact section fifty of chapter twenty-nine
 of the code of West Virginia, being serial section nine hundred
 and thirty-four of the annotated code of one thousand nine hun-
 dred and thirteen, so as to enlarge the right of consolidation of
 lands, and to authorize the consolidation of the surface of lands,
 and any estate in the coal, oil, gas, ore, limestone, fire clay, or

other minerals, or mineral substances in and under lands or of the timber thereon on the land books, and to extend such right to the cases specified herein, by permitting the division of tracts for that purpose, authorizing the consolidation of parts of tracts with entire tracts, or parts of other tracts, the consolidation into one tract of lands charged as fee (by which is meant the entire body of the land) with the surface of lands and any estate in the coal, oil, gas, ore, limestone, fire clay, or other minerals, or mineral substances, in and under the same, or parts of any such tracts and consolidation by leasehold boundaries, in so far as the same may be within a single magisterial district of any county.

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[H. B. No. 147]

Be it enacted by the Legislature of West Virginia:

Section 1. That section fifty of chapter twenty-nine of the 2 code of West Virginia, serial section nine hundred and thirty-four 3 of the annotated code of one thousand nine hundred and thirteen, 4 be and the same is hereby amended and re-enacted so as to read 5 as follows:

Sec. 50. Any owner of two or more contiguous tracts of land 2 situated in whole or in part in the same magisterial district of any 3 county, may upon application to the county court of such county 4 and duly showing the relative location of said tracts, their owner- 5 ship and present description on the land book, have the same by 6 order of said court, consolidated and charged, by aggregating the 7 quantities thereof, so far as lying in the same magisterial dis- 8 trict, as one tract upon the land book of said county for the suc- 9 ceeding year and thereafter; *provided*, that for the purpose of 10 consolidation of lands or the surface of lands or any estate in the 11 coal, oil, gas, ore, limestone, fire clay, or other minerals, or min- 12 eral substances in and under the same, or of the timber thereon, on 13 the land books any tract heretofore charged separately thereon, 14 whether as fee (by which is meant the entire body of land), or as 15 one or more mineral interests, or other interests herein specified, or H. B. No. 147] 5

16 surface, or timber only, may be divided, and the divisions thereof be 17 consolidated with other like tracts or parts of tracts; and *provided* 18 *also*, that such mineral tracts and surface or timber tracts, or 19 other tracts herein mentioned, may be consolidated in whole or in 19-a part with tracts, or parts of tracts charged as fee, or with one or 19-b more other such mineral or surface or timber tracts or

20 parts of such tracts, as so many acres fee, so many acres mineral,
21 so many acres surface, and so many acres timber, or as the case
22 may be; and *provided further*, that so much of any land or lands
23 so charged as fee, or as surface, or as an estate in the coal, oil,
24 gas, ore, limestone, fire clay, or other minerals or mineral sub-
25 stances in and under the same or of the timber thereon, as may
26 be leased to a single lessee, or to several lessees jointly for mining
27 purposes, or for any other purpose, under a written lease describ-
28 ing by metes and bounds the exterior boundary lines thereof, as
29 may be in one magisterial district, whether the entire leasehold
30 or part thereof, and whether consisting of one or more tracts, or
31 parts of tracts, or parts of a tract only, and whether the said
32 tracts or parts of tracts have heretofore been charged as fee, or as
33 mineral, or as one or more mineral interests herein specified, or as
34 surface, or as timber only, may be consolidated into or designated

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35 as one tract by order of the county court as herein provided, and
36 be thereafter so charged upon the land books for that magisterial
37 district; and *provided moreover*, that any and all such lands or
38 interests in land as are herein specified may be consolidated as
39 aforesaid, whether the estate of the taxpayer charged or to be
40 charged therewith be in fee simple, or for life or be otherwise limi-
41 ted, except a leasehold interest.

42 In every case of consolidation the order directing the consoli-
43 dation to be made shall so describe the several properties con-
44 solidated as to enable the same to be therein identified as separate
45 parcels or to be so identified by reference therein made to a re-
46 corded instrument, or recorded instruments, or both by descrip-
47 tion and reference to such instrument or instruments.

48 The officer whose duty it is to make out the land books, upon
49 presentation to him of a certified copy of said order showing the
50 consolidation or designation of said several tracts or parts of
51 tracts of land, surface or timber, or estate in the coal, oil, gas, ore,
52 limestone, fire clay, or other minerals or mineral substances here-
53 in mentioned, shall enter the same as one upon the land book for
54 the year next ensuing, and make a proper note opposite the last
55 entry of each of said several tracts so consolidated or designated
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56 in whole or in part, referring to said order, and a like note op-
57 posite the entry of the tract so consolidated or designated. He
58 shall value the said tract (or its component parts, as so charged)

59 as its (or their) proper value according to the rule prescribed in
60 section twelve of this chapter. Any such officer failing to com-
61 ply promptly with any of the several duties imposed by this sec-
62 tion, shall be deemed guilty of a misdemeanor and upon convic-
63 tion thereof shall be fined not less than twenty-five and not more
64 than fifty dollars.

Sec. 2 All acts or parts of acts and all sections or parts of sec-
2 tions of the code of West Virginia, inconsistent with the provisions
3 of this act, are hereby repealed.

House Bill No. 154

(BY MR. JOHNSTON, by request.)

[Introduced January 19, 1921; referred to the Committee on Edu-
cation.]

House Bill No. 154

A BILL to amend and re-enact section one hundred and eighty-five
of chapter two, of the acts of the legislature of one thousand
nine hundred and nineteen, relating to the collection and dis-
bursement of school money, and the bond to be given by the
sheriff to secure such money.

Be it enacted by the Legislature of West Virginia:

That section one hundred and eighty-five, of chapter two, of the
acts of the legislature of one thousand nine hundred and nineteen,
be amended and re-enacted so as to read as follows:

The sheriff of the county shall receive, collect and disburse all
2 school money for the county and the several districts and inde-
3 pendent districts therein. But before receiving or collecting
4 any such school money he shall give in addition to his bond as col-
5 lector of the state and county taxes, a bond with approved surety in
6 such amount as may be fixed by the county court.

House Bill No. 196

(BY MR. McCLINTIC, of Kanawha.)

[Introduced January 20, 1921; referred to the Committee on Taxa-
tion and Finance.]

House Bill No. 196

A BILL to provide for the employment of counsel in counties with a population of one hundred thousand or more for the purpose of furnishing legal advice to the county court, to conduct litigation of a civil character to which the county court is a party and to fix the compensation of such counsel.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of any county, having a population, according to the last official census, of one hundred thousand or more, together with the judge of the circuit court of such county, shall have authority to employ such legal counsel as they may deem necessary for the purpose of advising such county court touching all matters of a civil character and to conduct any litigation of a civil character to which the county is a party. The county court shall also have authority to fix the compensation of any counsel so employed which shall not exceed the sum of five thousand dollars annually and to pay the same out of the county treasury. Any such counsel so employed may be removed at the pleasure of the county court.

House Bill No. 172

(BY MR. WILLIAMSON)

[Introduced January 19, 1921; referred to the Committee on the Judiciary.]

House Bill No. 172

A BILL to amend and re-enact sections twenty-two and twenty-three of chapter thirty-seven of the acts of the legislature of one thousand nine hundred and nineteen relating to the pay of grand and petit jurors.

Be it enacted by the Legislature of West Virginia:

That sections twenty-two and twenty-three of chapter thirty-seven

of the acts of the legislature of one thousand nine hundred and nineteen be amended and re-enacted so as to read as follows:

Section 22. Every person who shall serve upon a grand jury

2 shall be entitled to receive for such services not less than two
3 dollars and fifty cents, and not more than three dollars and fifty
4 cents for each day he may so serve, and in addition thereto the
5 same mileage as allowed to witnesses, to be paid out of the county
6 treasury. But he shall not be paid for more than four days ser-
7 vice at any one term of the court, except in the counties of Ka-
8 nawha, McDowell, Fayette, Cabell, Marshall, Wetzel, Tyler, Ma-
9 rion, Wood, Ohio and Mingo, where such grand jurors shall not be
10 paid for more than ten days service for any one term of court.

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Sec. 23. Any person summoned as aforesaid by virtue of a
2 *venire facias* or otherwise and actually attending upon the court,
3 or attending at the court house, at the time summoned, whether he
4 be called to serve on a jury or not, shall for each day he so at-
5 tends, be entitled to receive not less than two dollars and fifty cents
6 and not more than three dollars and fifty cents and the same mile-
7 age allowed to witnesses, to be paid out of the county treasury.
8 The county court shall fix the compensation as provided for above,
9 in the same manner and at the same time that the annual allow-
10 ances are made to county officers.

11 *Provided*, that for any day that any person shall be sworn to
12 serve on a case of felony he shall, for that day, and any other days
13 he may so serve on such case, be paid three dollars and fifty cents
14 out of the state treasury. That for each day he shall not actually
15 attend the court house he shall receive nothing and that mileage
16 shall be allowed but once during the term. There shall be taxed
17 in the costs against any person against whom a judgment on the
18 verdict of a jury may be rendered in a case of misdemeanor, and
19 against any person against whom judgment on the verdict of a
20 jury may be rendered in a civil action, and against any person on
21 whose motion the verdict of the jury is set aside and a new trial
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22 granted, eight dollars for jury costs, which, when collected from the
23 party shall be paid into the county treasury. All money so re-
24 ceived by the clerk shall forthwith be paid by him to the sheriff,

25 and the clerk and his sureties shall be liable therefor on his official
26 bond, as for other moneys coming into his hands by virtue of his
27 office.

28 The clerk of the circuit court of each county shall annually cer-
29 tify to the county court a list of all moneys so paid to him and by
30 him paid to the sheriff and in addition thereto a correct list of all
31 the cases in which jury fees have been taxed, and are, at the time,
32 properly due and payable into the county treasury, and the sheriff
33 of the county shall be held to account, in his annual settlement,
34 for all such moneys collected by him.

35 All acts and parts of acts in conflict herewith are hereby re-
36 pealed.

House Bill No. 187

(By MR. DAVIS, of Taylor)

[Introduced January 20, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 187

A BILL to amend and re-enact section thirteen of chapter one hun-
dred and thirty-seven of the code of West Virginia, relating to
fees of officers.

Be it enacted by the Legislature of West Virginia:

That section thirteen of chapter one hundred and thirty-seven
of the code of West Virginia be amended and re-enacted so as to
read as follows:

Section 13. Every constable shall be entitled to charge and
2 receive the following fees: for removing a person by virtue of
3 warrant issued under the thirteenth section of chapter forty-six to
4 be charged to the county court of the county, five cents for each
5 mile of necessary travel, going and returning; for service and re-
6 turn of summons to commence a suit and for every additional
7 summons, seventy-five cents; for serving and returning order of
8 attachment, seventy-five cents for each garnishee summoned, and
9 one dollar for taking property, including inventory and appraise-
10 ment, besides the reasonable expenses of removing, securing and

11 keeping the property attached; for subpoenas, for each person
 12 served therewith, fifty cents; for summoning a jury and return

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13 of venire, one dollar and a half; for levying an execution on per-
 14 sonal property and return, one dollar; for preparing notices of
 15 sale, seventy-five cents; for money made under execution or at-
 16 tachment and paid to the party entitled thereto, five per centum;
 17 for serving and returning other writs and notices not specified in
 18 this section, each seventy-five cents; for executing a writ of pos-
 19 session under section two hundred and thirty-five of chapter fifty,
 20 three dollars; for summoning the jury and witnesses for inquest
 21 on a dead body, to be audited and paid from the treasury of the
 22 county, three dollars; for attending trials, and keeping order
 23 thereto, for the time actually occupied in the trial, fifty cents
 24 per hour; for services not otherwise provided for the same fees
 25 as sheriff for similar cases.

House Bill No. 189

(BY MR. DAVIS, of Taylor)

[Introduced January 20, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 189

A BILL to amend section one hundred and fourteen of chapter fifty
 of the code of West Virginia by adding thereto a provision for
 entering judgment by justices in certain cases to cover an at-
 torney fee as an item of costs.

Be it enacted by the Legislature of West Virginia:

That section one hundred and fourteen of chapter fifty of the code
 of West Virginia be amended by adding thereto the following:

Where the judgment to be entered by the justice shall be twen-
 2 ty-five dollars or more, he may include in the costs of the trial
 3 and in his judgment for costs, an attorney fee of not more than
 4 five dollars to be paid to the prevailing party.

House Bill No. 188

(By MR. DAVIS, of Taylor)

[Introduced January 20, 1921; referred to the Committee on the Judiciary.]

House Bill No. 188

A BILL to amend section thirty of chapter fifty of the code regarding the appointment of special constables.

Be it enacted by the Legislature of West Virginia:

That section thirty of chapter fifty of the code of West Virginia be amended and re-enacted so as to read as follows:

Section 30. When it shall satisfactorily appear to a justice issuing a summons, attachment, execution, or warrant of arrest in a civil action, or a warrant in a criminal proceeding, that a necessity exists therefor, he may appoint a special constable to execute the same, either by directing such process to such special constable by name as follows: "To A. . . . B. . . ., who is hereby appointed a special constable to execute this process," or by endorsing such appointment on said process.

House Bill No. 190

(By MR. DAVIS, of Taylor)

[Introduced January 20, 1921; referred to the Committee on the Judiciary.]

House Bill No. 190

A BILL to amend and re-enact section twenty-one of chapter one hundred and thirty-seven of the code of West Virginia relating to fees of constables in criminal cases.

Be it enacted by the Legislature of West Virginia:

That section twenty-one of chapter one hundred and thirty-seven of the code of West Virginia be amended and re-enacted so as to read

as follows:

Section 21. For an arrest in case of a felony, two dollars; for
 2 an arrest in cases other than felony, one dollar; for each mile
 3 traveled in making an arrest and bringing a prisoner before a
 4 justice or place of commitment, ten cents; for each witness sub-
 5 poenaed, fifty cents; for performing the duties required by sec-
 6 tion two hundred and thirty-four of chapter fifty of the code, fifty
 7 cents per hour for the time actually occupied in the trial; for
 8 committing a person to jail, fifty cents, and ten cents per mile
 9 for distance traveled in so doing; for services not otherwise pro-
 10 vided for, the same fees as allowed to sheriffs; in cases of
 11 search warrants, and proceedings under chapter one hundred and
 12 fifty-six of the code, the fees of constables shall be chargeable to
 4 [H. B. No. 190
 13 the county, and shall be audited and paid as other claims of
 14 like nature by the county court. In criminal cases, other than
 15 felony, such fees shall be charged and paid as provided in sections
 16 two hundred and twenty-seven and two hundred and twenty-nine
 17 of chapter fifty of the code.

House Bill No. 312

(BY MR. KISER.)

[Introduced January 22, 1921; referred to the Committee on
 Roads and Internal Navigation.]

House Bill No. 312

A BILL to repeal sections fifty-nine and sixty of chapter sixty-six
 of the acts of the legislature of the year one thousand nine hun-
 dred and seventeen, relating to the good roads law.

Be it enacted by the Legislature of West Virginia:

That sections fifty-nine and sixty of chapter sixty-six of the acts
 of the legislature of the year one thousand nine hundred and seven-
 teen relating to the good roads law be and the same are hereby
 repealed.

Section 1. Sections fifty-nine and sixty of chapter sixty-six of

2 the acts of the legislature of the year one thousand nine hundred
3 and seventeen, be and the same are hereby repealed.

Sec. 2. All acts or parts of acts inconsistent with this act and
2 to be read in connection herewith are likewise hereby repealed.

House Bill No. 381

(BY MR. GRISINGER.)

[Introduced January 25, 1921; referred to the Committee on
Counties and Municipal Corporations.]

House Bill No. 381

A BILL to amend and re-enact section two of an act of the legislature
of West Virginia of one thousand nine hundred and nineteen,
creating the municipal corporation of the city of Montgomery
in the county of Fayette, and to change and enlarge the boundary
limits of said city so as to include additional territory, The
said act being known as "House Bill No. 94" and which act
was approved by the governor on theday of....., one
thousand nine hundred and nineteen.

ARTICLE II—CORPORATE LIMITS.

Section 2. The corporate limits of the city of Montgomery shall
2 be as follows:

3 Beginning at the point "A" shown on the map entitled
4 "map showin original and enlarged corporate limits of Mont-
5 gomery, West Virginia." This point being a stone planted on a
6 hillside on accepted corner to the original corporate limits thence
7 with a line of the original limits N 46° 29' E 595 feet to a stake
8 on Kanawha river thence with and down same N 24° 01' W 425
9 feet to a stake in the mouth of Elwood branch at the low water
10 mark N 43° 46' W 225 feet to a point in low water mark, N 50°
4 [H. B. No. 381
11 44' W 456.2 feet to a point in low water mark, N 56° 50' W 615
12 feet to a point in low water mark N 63° 11' W 529 feet to a point
13 in low water mark. N 51° 48' W 690 feet to a point in low water
14 mark, N 53° 03' W 377 feet to a point near the bridge, N. 61° 59'
15 W 296 feet to a point in low water mark, N 74° 07' W 200 feet to

16 a point in low water mark, N 85° 44' W 338.5 feet to a point in
17 low water mark S 82° 57' W 807 feet to a point in low water
18 mark S 81° 36' W 487 feet to a point in low water mark, S 72°
19 00' W 636 feet to a point by a large sycamore stump in low water
20 mark S 76° 20' W 720 feet to a monument on the Riggs and
21 Montgomery property line thence S 2° 33' E 1128.6 feet to a
22 planted stone on the south or upper edge of the Giles, Fayette and
23 Kanawha turnpike an accepted corner to said Riggs and Mont-
24 gomery line thence S 22° 00' E 500 feet to a stone planted on a
25 steep hillside, south of and above said turnpike. Thence S 83°
26 03' E 5261.8 feet to the beginning.

House Bill No. 275

(BY MR. DAUGHERTY, of Wirt.)

[Introduced January 21, 1921; referred to the Committee on the Judiciary.]

House Bill No. 275

A BILL authorizing the county court of Wirt county, West Virginia, to lay a special levy for the year one thousand nine hundred and twenty-two, and if necessary for the purpose for the year one thousand nine hundred and twenty-three on all taxable property of said county for the purpose of erecting a public bridge across the Little Kanawha river at the county seat thereof, and providing for the receipt and disbursement of all moneys raised by said levy.

Be it enacted by the Legislature of West Virginia:

Section 1. For the purpose of constructing a public bridge
2 across the Little Kanawha river, at the county seat of the county
3 of Wirt, and the county court of said county is hereby authorized
4 to lay a special levy on all taxable property within the said
5 county for the year one thousand nine hundred and twenty-two
6 and if necessary for the year one thousand nine hundred and
7 twenty-three, not to exceed in either year ten cents on the one
8 hundred dollar valuation of said property, as assessed for regular
9 state, county and district taxation. Said levy shall be called a

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[H. B. No. 275]

10 "special bridge levy" and the funds derived therefrom shall be
 11 used for said purpose and for no other.

Sec. 2. Said bridge shall be constructed according to such
 2 plans and specifications as said county court may decide upon
 3 and all moneys realized from said special levy shall be kept in a
 4 separate fund and a separate account kept of the receipts and
 5 disbursements of the same.

House Bill No. 201

(BY MR. MILLER.)

[Introduced January 20, 1921; referred to the Committee on Education.]

House Bill No. 201

A BILL to amend and re-enact section fifty-four of chapter two of the acts of the legislature of one thousand nine hundred and nineteen, regular session, relating to the extension of the school term.

Be it enacted by the Legislature of West Virginia:

That section fifty-four of chapter two of the acts of the legislature of one thousand nine hundred and nineteen, regular session, relating to extension of the school term be amended and re-enacted so as to read as follows:

Section 54. The board of education of every district and independent district shall provide in the schools of its district a minimum school term in each year as follows: In the year one thousand nine hundred and nineteen and one thousand nine hundred and twenty, one hundred and twenty days; in the year one thousand nine hundred and twenty and one thousand nine hundred and twenty-one, one hundred and thirty days; in the year one thousand nine hundred and twenty-one and one thousand nine hundred and twenty-two, one hundred and forty days; in the year one thousand nine hundred and twenty-

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11 two and one thousand nine hundred and twenty-three, one hundred

12 and fifty days; in the year one thousand nine hundred and twenty-
 13 three and one thousand nine hundred and twenty-four, and there-
 14 after, one hundred and sixty days. It is *provided, however*, that the
 15 board of education of any district or independent school district
 16 shall have authority to extend such minimum school term in any
 17 year for as many days in addition thereto as the board may de-
 18 termine. It is *provided further*, that if the proceeds of the regular
 19 levies authorized by law are insufficient to enable the board of edu-
 20 cation of any district to extend the term of school for a longer
 21 term than the minimum herein provided, such board may at a
 22 general election or at a special election submit to the qualified
 23 voters of the district the question of such extension of the school
 24 term, and if petitioned so to do by at least fifty taxpayers in any
 25 district the board of education shall submit the question of such
 26 extension of the school term. If at any such election a majority
 27 of the votes cast on the question are in favor of such extension,
 28 it shall be the duty of the board of education to make such ex-
 29 tension and to lay sufficient levy to conduct the schools as pro-
 30 vided by law. The term of school fixed by such election shall con-
 H. B. No. 201] 5

31 tinue from year to year until the terms so fixed shall be changed by
 32 a majority vote of the people in such district.

House Bill No. 330

(BY MR. HEROLD.)

[Introduced January 24, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 330

A BILL to amend and re-enact section fourteen of chapter sixty-
 four of Barnes' code of West Virginia, edition one thousand nine
 hundred and eighteen.

Be it enacted by the Legislature of West Virginia:

That section fourteen of chapter sixty-four of Barnes' code of West
 Virginia, edition one thousand nine hundred and eighteen be amended
 and re-enacted so as to read as follows:

Section 14. Neither party to a divorce suit shall again marry
 2 within five years from the date of a decree of divorce; but this

3 provision shall not apply to, or prohibit the divorced parties from
 4 being re-married to each other at any time. The court may further
 5 prohibit the guilty party from marrying within a certain time, to
 6 be fixed in the decree, not to exceed ten years from the date of
 7 the decree; and any marriage contracted by the parties, or either
 8 of them, except a re-marriage by the divorced parties to each other,
 9 within the prohibited period, shall be void, and the party shall be
 10 criminally liable the same as if no divorce had been granted. The
 11 court may, at any time after the expiration of five years, modify the
 4 [H. B. No. 330
 12 restraint imposed upon the guilty party, upon it being shown that
 13 such person, by reason of his or her life and conduct, since the date
 14 of the decree, is entitled to such relief.

House Bill No. 186

(By MR. DAVIS, of Taylor)

[Introduced January 20, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 186

A BILL to amend section twenty-three of chapter forty-one of the
 code of West Virginia and to provide that a portion of the wages
 of a husband or father shall be subject to execution or other
 process.

Be it enacted by the Legislature of West Virginia:

That section twenty-three of chapter forty-one of the code of West
 Virginia shall be amended by adding thereto the following:

Sec. 23. *Provided, further,* that, when any husband sets apart
 2 and holds personal property to be exempt from execution or other
 3 process, as herein provided, he shall only be entitled to set apart as
 4 exempt two-thirds of his wages then due if he have no children,
 5 under the age of fourteen years, and if he have children under the
 6 age of fourteen years, then, in addition, he may set aside as ex-
 7 empt ten per centum of the remaining one-third of his wages then
 8 due for each child dependent upon him for support he may
 9 have under the age of fourteen years; and, *provided, further,* that,
 10-11 when any parent who is a widower, sets apart and holds personal
 12 property to be exempt from execution or other process as herein

13 provided, he shall be entitled only to set apart as exempt one-
4 [H. B. No. 186
14 half of his wages then due if he have one child dependent upon
15 him for support under the age of fourteen years, and an ad-
16 ditional ten per centum of the remaining one-half of his wages
17 then due for each other child dependent upon him for support
18 which he may have under the age of fourteen years.

House Bill No. 257

(By MR. MOORE, of Marshall.)

[Introduced January 21, 1921; referred to the Committee on the Judiciary.]

House Bill No. 257

A BILL to amend and re-enact section four of chapter one hundred and fourteen-b, of the code of West Virginia, of one thousand nine hundred and thirteen.

Be it enacted by the Legislature of West Virginia:

That section four of chapter one hundred and fourteen-b of the code be amended and re-enacted to read as follows:

Section 4. It shall be the duty of said shorthand reporter to
2 furnish a copy of the notes of testimony, written out in long hand,
3 upon the request of the judge without extra charge, and in case
4 either party to the cause shall request or require a transcript of
5 the said notes, the stenographer shall furnish the same in long
6 hand, and shall be entitled to be paid therefor the sum of twenty
7 cents per each hundred words so transcribed. And if upon ap-
8 peal or writ of error the judgment or order entered in the cause
9 be reversed, the cost of such transcript shall be taxed as other
10 costs, and if said transcript be requested or required for the pur-
11 pose of demurring to the evidence, the cost thereof shall be taxed
12 in favor of the party prevailing on the demurrer.

House Bill No. 294

(By MR. THOMPSON)

[Introduced January 21, 1921; referred to the Committee on Counties, Districts and Municipal Corporations.]

PHILIPPI CHARTER

House Bill No. 294

A BILL to amend and re-enact section nine of chapter eleven of the acts of the legislature of one thousand nine hundred and fifteen, and sub-divisions twenty-six and twenty-eight of section sixteen of chapter eleven of the acts of the legislature of one thousand nine hundred and fifteen, and section seventeen of chapter thirteen of the acts of the legislature of one thousand nine hundred and five, and section eighteen of chapter seven of the acts of the legislature of one thousand nine hundred and seven, and sections twenty-eight and thirty-three of chapter thirteen of the acts of the legislature of one thousand nine hundred and five, concerning the charter of the city of Philippi.

Be it enacted by the Legislature of West Virginia:

That section nine of chapter eleven of the acts of the legislature of one thousand nine hundred and fifteen, and sub-divisions twenty-six and twenty-eight of section sixteen of chapter eleven of the acts of the legislature of one thousand nine hundred and fifteen, and section seventeen of chapter thirteen of the acts of the legislature of one thousand nine hundred and five, and section eighteen

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of chapter seven of the acts of the legislature of one thousand nine hundred and seven, and sections twenty-eight and thirty-three of chapter thirteen of the acts of the legislature of one thousand nine hundred and five, be amended and re-enacted so as to read as follows:

Section 9. The council shall by ordinance, consistent with this act and general law, prescribe the powers, define the duties and fix the compensation of the chief of police elected under the provisions of this act, and of all officers appointed by the council, according to the provisions of section eighteen of this act; and the council shall require from the chief of police a bond, with

7 good security to be approved by it, in the penalty of not less
8 than one thousand dollars for the faithful performance of his
9 duties as such chief of police, and to account for and turn over
10 all money or property coming into his hands as such officer, and
11 the council may require and take from the appointive officers,
12 respectively, bonds payable to the city in its corporate name,
13 with such security, and in such penalties as may be deemed
14 proper, conditioned for the faithful performance of their duties.

15 (26) To regulate or prohibit the erection, or operation, or
16 maintenance in what the council deems an improper locality
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17 within said city, any blacksmith shop, livery stable, barn, stable,
18 cattle pen, poultry house, pig pen, privy, bill board, sign board,
19 gas or other engine, coal mine, coal plant, or coal bin, or any
20 other thing that would in the opinion of the council, be a men-
21 ace to persons or property or public safety, or that would injure
22 private property or annoy citizens of said city.

23 (28) To define what shall constitute a nuisance, and to abate
24 all nuisances, whether so defined or not, and to require the
25 removal or abatement of any buildings, business, sign board, bill
26 board, signs, or other thing which in the opinion of the council
27 is a nuisance.

Sec. 17. To carry into effect these enumerated powers and
2 all others by this act or by general law conferred or which may
3 hereafter be conferred upon the said city or its council or any
4 of its officers, the said council shall have and possess full au-
5 thority to make, pass and adopt all needful ordinances, by-laws,
6 orders and resolutions, not repugnant to the constitution and
7 laws of the United States or of this state; and to enforce any
8 and all of such ordinances, by-laws, orders or resolutions by
9 prescribing for a violation thereof fines and penalties and im-
10 prisonment in either the county jail of Barbour county or the

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11 city prison if there be one; but no fine shall exceed one hun-
12 dred dollars and no term of imprisonment shall exceed thirty
13 days, *provided*, that any violation of the prohibition laws of
14 this state shall be punished by the fines and penalties therein
15 prescribed, notwithstanding anything contained in section six-
16 teen, sub-division eighty-four of this charter, as amended. Such
17 fines and penalties shall be imposed and recovered, and such

18 imprisonment inflicted, and enforced by the judgment of the
19 mayor of said city, or in case of his absence or inability to act,
20 of the clerk of said city, or in case of the absence or inability
21 to act of both of said officers, of one of the councilmen ap-
22 pointed for that purpose by the council.

Sec. 18. The council shall fix the salaries and compensation
2 of all officers, whether elective or appointive, and of all other
3 persons employed by them, including that of the mayor, city clerk,
4 chief of police, and other policemen, street commissioner, coun-
5 cilmen, and all other persons; but members of council shall
6 not receive more than one dollar for each meeting of the coun-
7 cil which they actually attend, nor shall the mayor receive more
8 than three hundred dollars per annum, exclusive of fees, nor
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9 shall any officer or other person receive more than one hundred
10 dollars per month.

Sec. 28. It shall be the duty of the city clerk to keep a
2 journal of the proceedings of the council, and have charge of
3 of and preserve the records, bonds, papers and other documents
4 belonging to the city. It shall be his duty to attend the sessions
5 of the police court and keep accurate records of its proceedings,
6 and all judgments shall be entered by him within twenty-four
7 hours after the same are rendered. He shall, in case of sick-
8 ness or disability of the mayor to act, or in case of his absence
9 from the city, or during any vacancy in the office of the mayor,
10 perform the duties of mayor, and shall be vested with all powers
11 necessary for the performance of such duties. He shall also
12 perform such other duties pertaining to the fiscal affairs of the
13 city or otherwise, as may be required of him by this act or by
14 the council.

Sec. 33. It shall be the duty of the clerk, at least once in
2 six months during his continuance in office, and oftener when
3 required by the council to render an account of the taxes, levies,
4 assessments and other claims in his hands for collection, and
5 return a list of such as he shall not have been able to collect

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6 by reason of insolvency, removal or other cause, to which list
7 he shall append an affidavit that he has used due diligence to
8 collect the claims therein mentioned, but has been unable to do
9 so, and if the council shall be satisfied with the correctness of

10 said list, it shall allow him a credit for said claim, but may
11 thereafter take such lawful measures to collect the same as may
12 be prescribed. He shall keep regular books of account to be
13 examined and approved by the council, of all moneys received
14 and disbursed by him, and of other matters pertaining to his
15 office, which books shall at all times be open to the inspection of
16 the council, or any committee appointed by it for such purpose.
17 All moneys belonging to the city shall be paid over to the clerk,
18 and no money shall be paid out by him except upon the order
19 of the council, countersigned by the mayor. If the clerk shall
20 fail to collect, account for and pay over all or any of the moneys
21 with which he may be chargeable, belonging to the city, accord-
22 ing to the conditions of his bond and the orders of the council,
23 the same may be recovered by action or by motion, upon ten
24 days' notice in the corporate name of the city, in the circuit
25 court of Barbour county, against him and his sureties or any or
26 either of them or his or their executors or administrators. If

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27 the sum claimed does not exceed three hundred dollars, such
28 recovery may be had before the mayor or any justice of said
29 county.

30 All acts, or parts of acts, within the purview of this act,
31 are hereby repealed.

House Bill No. 221

(BY MR. McCLINTIC, of Greenbrier.)

[Introduced January 20, 1921; referred to the Committee on
Roads and Internal Navigation.]

House Bill No. 221

A BILL empowering licensing boards of this state to revoke licenses
granted when the person to whom the license is granted is con-
victed of a felony.

Be it enacted by the Legislature of West Virginia:

Any board, council or commission empowered by law to grant licenses for the practice of a profession in this state as hereinafter named, shall revoke said license, when a person to whom said body has granted a license has been convicted of a felony.

This act shall apply to all persons licensed to practice law, medicine, surgery, nursing, mid-wifery, veterinary science, pharmacy, embalming, or any other licensed art or profession.

The clerks of the circuit courts of this state shall certify to the various licensing bodies of the state the conviction of any and all persons of a felony who hold licenses granted by the various licensing boards of the state regulating the professions above enumerated. Said certified report shall be made in not more than ten days after conviction of said licentiate. Upon receipt of said certification the licensing body which issued or issues licenses cov-

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ering the profession of which said licentiate is a member shall immediately revoke said license.

No license granting body which has to do with granting professional licenses as above stated shall issue a license to any person or persons who has in this or in any other state, territory or foreign country been convicted of a felony and in the event that it is brought to the attention of the board in an official and legal manner that said board has granted a license to any person who has been guilty of a felony said board shall immediately revoke said license of said licentiate.

All other acts and laws inconsistent with the provisions of this act are hereby repealed.

House Bill No. 334

(By MR. MIDELBURG, of Kanawha.)

[Introduced January 24, 1921; referred to the Committee on Counties, Districts and Municipal Corporations.]

House Bill No. 334

A BILL to amend and re-enact sections two and three of chapter one of the acts of the legislature of one thousand nine hundred

and fifteen, bound in a volume of municipal charters of such acts and known as the "charter of the city of Charleston", as amended and re-enacted by chapter nine of the acts of the legislature of one thousand nine hundred and nineteen, bound in a volume of municipal charters of such acts, relating to and becoming a part of the charter of the city of Charleston.

Be it enacted by the Legislature of West Virginia:

That sections two and three of chapter one of the acts of the legislature of one thousand nine hundred and fifteen, bound in a volume of municipal charters of such acts and known as the "charter of the city of Charleston", as amended and re-enacted by chapter nine of the acts of the legislature of one thousand nine hundred and nineteen, bound in a volume of municipal charters of such acts, be amended and re-enacted so as to read as follows:

Section 2. The corporate territorial limits of the city of 2 Charleston shall comprise all that part of the territory of the 3 magisterial districts of Charleston and Loudon in the county of

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4 Kanawha and state of West Virginia, which is bounded and 5 described as follows, to-wit:

6 Beginning at the mouth of Kanawha Two Mile creek, in
7 Charleston district; thence up said Kanawha Two Mile creek
8 to the bridge on the Lock Six road; thence in a straight line
9 to a point in the northern line of Edgewood drive at the southern
10 end of Guardway avenue in the Fairview addition; thence a
11 straight line to a point in Gill hollow 200 feet north of Crescent
12 road; thence with the Gill hollow with a line extended across
13 the Elk river to low water mark on the east side thereof; thence
14 down said Elk river at low water mark to a point in the center
15 of Coal branch; thence up Coal branch a distance of 5955 feet
16 to a point on the divide at the head of said Coal branch; thence
17 by a line to a point in Ruffner hollow 200 feet from Piedmont
18 road; thence in an easterly direction parallel with Piedmont
19 road and 200 feet northeast of same to the center of the branch
20 in Wilsons hollow on the center line of the culvert under the
21 Kanawha and Michigan railroad, extending thence with the said
22 center line of said culvert extended to the low water mark in
23 the Kanawha river; thence across Kanawha river to low water
24 mark on the south side of said river in eastern line of Fifth
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25 street extended; thence with said eastern line of Fifth street
 25-a to a point 300 feet south of the southern right of way
 26 line of the Chesapeake and Ohio railroad; thence in a line
 27 parallel and 300 feet south of the said southern right of way
 28 line of the Chesapeake and Ohio railroad to a point in Porters
 29 branch; thence south 84 degrees 30 minutes west, 382 feet; south
 30 47 degrees west 475 feet; south 23 degrees 30 minutes west 500
 31 feet; south 49 degrees 9 minutes west 185 feet; south 23 degrees
 32 30 minutes west 165 feet; south 56 degrees west 200 feet; south
 33 75 degrees 30 minutes west 230 feet; north 59 degrees 30 minutes
 34 west 322 feet; north 78 degrees 09 minutes west 151 feet; north
 35 89 degrees 30 minutes west 174.9 feet; north 69 degrees 45
 36 minutes west 416 feet; north 74 degrees west 1005 feet; north
 37 85 degrees west 340 feet; south 88 degrees west 510 feet; south
 38 44 degrees 30 minutes west 279 feet; south 50 degrees west 260
 39 feet; thence leaving Porters hollow north 70 degrees west 307.5
 40 feet; north 47 degrees west 94.5 feet; thence with the line of
 41 lands of South Side Improvement Company and James Pauline
 42 north 33 degrees 30 minutes west 180 feet to the corner of said
 43 James Pauline's fence; thence north 35 degrees 30 minutes east
 44 565 feet; north 36 degrees west 495 feet; north 4 degrees west 225

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45 feet; north 75 degrees west 275 feet; thence with the meanders
 46 of the eastern side of the main county road north 18 degrees
 47 east 175 feet; thence leaving said road north 71 degrees 30
 48 minutes west 649 feet; south 71 degrees 30 minutes west 138
 49 feet; south 64 degrees 30 minutes west 200 feet, to the line on
 50 the properties of the South Side Improvement Company and
 51 Augustus Pauline, to the corner of the said Pauline's fence;
 52 north 68 degrees 30 minutes west 234 feet; north 34 degrees 20
 53 minutes west 180 feet; north 81 degrees west 130 feet; north
 54 29 degrees 30 minutes west 195 feet; north 21 degrees west 130
 55 feet; north 8 degrees 15 minutes east 660 feet; north 7 degrees
 56 west 264 $\frac{2}{5}$ feet; north 1 degree 30 minutes west 215 feet;
 57 north 15 degrees west 140 feet; north 7 degrees 30 minutes east
 58 194.1 feet; north 29 degrees east 370 feet; north 31 degrees east
 59 349.7 feet; north 18 degrees west 390 feet; north 37 degrees 30
 60 minutes west 280 feet; north 40 degrees 30 minutes west 200
 61 feet; north 30 degrees 30 minutes east 315 feet; north 1 de-
 62 gree 30 minutes east 294 feet; north 50 degrees 34 minutes east

63 200 feet; north 41 degrees east 781 feet; north 79 degrees east
64 400 feet; north 1 degree 30 minutes west 810 feet; to low water
65 mark on the said Kanawha river at the mouth of Ferry branch;
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66 thence down the Kanawha river at low water mark on the south
67 side of said river to a point opposite the mouth of Kanawha
68 Two Mile creek; thence across the Kanawha river to the place
69 of beginning.

Sec. 3. The said city shall be divided into fifteen (15) wards,
2 the boundaries of which shall be as follows:

3 *First Ward.* The first ward shall include the following ter-
4 ritory: Beginning at low water mark on the Kanawha river
5 at the end of Florida street; thence with Florida street to
6 Charleston street, and in a continuous straight line to the cor-
7 poration line on the north; thence with the corporation line to
8 mouth of Kanawha Two Mile creek, and with the Kanawha
9 river to the end of Florida street, the place of beginning.

10 *Second Ward.* The second ward shall include the following
11 territory: Beginning at the low water mark at the end of Florida
12 street; thence with the Kanawha river to the end of Park
13 avenue extended; thence with Park avenue to the corporation
14 line; thence with the corporation line to the northeastern corner
15 of the first ward; thence with the eastern line of ward one in
16 a straight line with Florida street, to the low water mark in
17 Kanawha river to place of beginning.

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18 *Third Ward.* The third ward shall include the following
19 territory: Beginning at the low water mark in the Kanawha
20 river at the end of Park avenue extended; thence with the Kan-
21 awha river to Delaware avenue; thence with Delaware avenue to
22 the Kanawha and Michigan railway; thence with the Kanawha
23 and Michigan railway to Charleston street; thence with Charles-
24 ton street to Carr street; thence with Carr street to the corpor-
25 ation lines on the north; thence with the corporation lines to
26 the northeastern corner of ward two; thence following the east-
27 ern line of ward two to low water mark in Kanawha river, the
28 place of beginning.

29 *Fourth Ward.* The fourth ward shall include the following
30 territory: Beginning at the low water mark in Kanawha river
31 at the end of Delaware avenue; thence with Kanawha river to

32 the mouth of Elk river, and up Elk river to Lovell street bridge
 33 and Charleston street; thence with Charleston street to Penn-
 34 sylvania avenue; thence with Pennsylvania avenue to Roane
 35 street; thence with Roane street to Delaware avenue; thence
 36 with Delaware avenue to the low water mark in Kanawha river,
 37 to place of beginning.

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38 *Fifth Ward.* The fifth ward shall include the following
 39 territory: Beginning at the low water mark in Elk river at
 40 Lovell street bridge; thence with Elk river to the Kanawha and
 41 Michigan railway; thence with the Kanawha and Michigan
 42 railway to Pine street; thence with Pine street to Magazine
 43 branch and with Magazine branch to corporation line; thence
 44 with the corporation line to the line of Carr street extended;
 45 thence with Carr street to Charleston street; thence with Charles-
 46 ton street to the Kanawha and Michigan railway; thence with
 47 the Kanawha and Michigan railway to Delaware avenue; thence
 48 with Delaware avenue to Roane street; thence with Roane street
 49 to Pennsylvania avenue; thence with Pennsylvania avenue to
 50 Charleston street; thence with Charleston street to low water
 51 mark in Elk river, the place of beginning.

52 *Sixth Ward.* The sixth ward shall include the following
 53 territory: Beginning at the low water mark in Elk river at the
 54 Kanawha and Michigan bridge; thence with the Elk river to Gill
 55 hollow; thence following the corporation lines to the north-
 56 eastern corner of ward five; thence with Magazine branch and
 57 Pine street to Kanawha and Michigan railway; thence with the
 58 Kanawha and Michigan railway to the low water mark in Elk

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59 river at the Kanawha and Michigan railway bridge, the place
 60 of beginning.

61 *Seventh Ward.* The seventh ward shall include the following
 62 territory: Beginning at the low water mark in Elk river at Lovell
 63 street bridge; thence with Lovell street to Truslow street; thence
 64 with Truslow street to Margaret stree; hence wih Margaret
 65 street to Donnally street, and the intersection of Young street;
 66 thence with Youny street in a continuous straight line to the
 67 corporation limits on the north; thence with the corporation line
 68 to Elk river; thence with Elk river to the low water mark at
 69 Lovell street bridge, the place of beginning.

70 *Eighth Ward.* The eighth ward shall include the following
71 territory: Beginning at the intersection of Lovell and Truslow
72 streets; thence with Truslow street to State street; thence with
73 State street to Capitol street; thence with Capitol street to
74 Smith street, and continuing in a straight line to the corpora-
75 tion line on the north; thence with the corporation line to the
76 northeastern corner of ward seven; thence in a straight line
77 with Young street to Donnally street; at its intersection with
78 Margaret street; thence with Margaret street to Truslow street;
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79 thence with Truslow street to Lovell street, the place of begin-
80 ning.

81 *Ninth Ward.* The ninth ward shall include the following
82 territory: Beginning at the low water mark in Elk river and
83 Lovell street bridge; thence with Elk river to the Kanawha
84 river; thence with Kanawha river to the low water mark at the
85 end of Capitol street; thence with Capitol street to State street;
86 thence with State street to Truslow street; thence with Truslow
87 street to Lovell street; thence with Lovell street to the low water
88 mark in Elk river, at Lovell street bridge, the place of beginning.

89 *Tenth Ward.* The tenth ward shall include the following
90 territory: Beginning at the low water mark in Kanawha river at
91 the end of Capitol street; thence with Kanawha river to the low
92 water mark at the end of Ruffner avenue; thence with Ruffner
93 avenue to its intersection with Lee street; thence with Lee street
94 to its intersection with Capitol street; thence with Capitol street
95 to the low water mark in Kanawha river, the place of beginning.

96 *Eleventh Ward.* The eleventh ward shall include the follow-
97 ing territory: Beginning at the intersection of Lee street and
98 Capitol street; thence with Capitol street to its intersection with
99 Smith and Dryden streets, and in a continuous straight line in

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100 the corporate limits on the north; thence with the corporation
101 limits in an easterly direction, to a point reached by a straight
102 line running with Brooks street; thence in a straight line run-
103 ning to and with Brooks street to the intersection of Brooks and
104 Lee streets; thence with Lee street to Capitol street, the place of
105 beginning.

106 *Twelfth Ward.* The twelfth ward shall include the follow-
107 ing territory: Beginning at the intersection of Lee and Brooks

108 streets; thence with Lee street to Beauregard street; thence with
109 Beauregard street, and in a straight line to the corporation limits
110 to the north; thence with the corporation limits to the north-
111 eastern corner of ward eleven; thence with the eastern line of
112 ward eleven, in a straight line, and with Brooks street, to the
113 intersection of Lee and Brooks streets, the place of beginning.

114 *Thirteenth Ward.* The thirteenth ward shall include the
115 following territory: Beginning at the intersection of Beauregard
116 and Lee streets; thence with Lee street to Elizabeth street;
117 thence with Elizabeth street to Piedmont road, and in a con-
118 tinuous straight line to the corporation limits on the north;
119 thence with the corporation line to the northeastern corner of
120 ward twelve; thence in a straight line to and running with
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121 Beauregard street, to the intersection of Lee and Beauregard
122 streets, the place of beginning.

123 *Fourteenth Ward.* The fourteenth ward shall include the
124 following territory: Beginning at the intersection of Ruffner
125 avenue and Lee street; thence with Ruffner avenue to low water
126 mark in Kanawha river, at the end of Ruffner avenue; thence
127 with Kanawha river to the corporation line on the east at Wilson
128 hollow; thence with Wilson hollow to the corporation line on
129 the north; thence with the northern corporation line to the north-
130 eastern corner of ward thirteen; thence in a straight line to
131 and running with Elizabeth street, to Lee street; thence with
132 Lee street to Ruffner avenue, the place of beginning.

133 *Fifteenth Ward.* The fifteenth ward shall include all of the
134 territory in the limits of the city south of said low water mark on
135 the north side of Kanawha river.

136 The said city shall be divided into twenty-nine (29) voting
137 precincts, the boundaries of which shall be as follows:

138 *Precinct No. 1.* Precinct one shall include all the territory
139 in ward one lying north of the Kanawha and Michigan railway.

140 *Precinct No. 2.* Precinct two shall include all the territory
141 in ward one lying south of the Kanawha and Michigan railway.

142 *Precinct No. 3.* Precinct three shall include all the territory

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143 in ward two lying north of the Kanawha and Michigan railway.

144. *Precinct No. 4.* Precinct four shall include all the territory
145 in ward two lying south of the Kanawha and Michigan railway.

146 *Precinct No. 5.* Precinct five shall include all the territory
147 in ward three lying north of Virginia street.

148 *Precinct No. 6.* Precinct six shall include all the territory
149 in ward three lying south of Virginia street.

150 *Precinct No. 7.* Precinct seven shall include all the territory
151 in ward four lying north of Randolph street.

152 *Precinct No. 8.* Precinct eight shall include all the territory
153 in ward four lying south of Randolph street.

154 *Precinct No. 9.* Precinct nine shall include all the territory
155 in ward five lying south of Birch street and Kanawha and
156 Michigan railway.

157 *Precinct No. 10.* Precinct ten shall include all the territory
158 in ward five lying north of Birch street and Kanawha and
159 Michigan railway.

160 *Precinct No. 11.* Precinct eleven shall include all the terri-
161 tory in ward six lying west of Magazine branch.

162 *Precinct No. 12.* Precinct twelve shall include all the terri-
163 tory in ward six east of Magazine branch.

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164 *Precinct No. 13.* Precinct thirteen shall include all the terri-
165 tory in ward seven south of North Rand street.

166 *Precinct No. 14.* Precinct fourteen shall include all the terri-
167 tory in ward seven lying north of North Rand street.

168 *Precinct No. 15.* Precinct fifteen shall include all the terri-
169 tory in ward eight lying south of North Rand street.

170 *Precinct No. 16.* Precinct sixteen shall include all the terri-
171 tory in ward eight lying north of North Rand street.

172 *Precinct No. 17.* Precinct seventeen shall include all the
173 territory in ward nine lying west of Truslow street.

174 *Precinct No. 18.* Precinct eighteen shall include all the
175 ritory in ward nine lying east of Truslow street.

176 *Precinct No. 19.* Precinct nineteen shall include all the ter-
177 ritory in ward ten lying west of Brooks street.

178 *Precinct No. 20.* Precinct twenty shall include all the terri-
179 tory in ward ten lying east of Brooks street.

180 *Precinct No. 21.* Precinct twenty-one shall include all the
181 territory in ward eleven lying west of Broad street.

182 *Precinct No. 22.* Precinct twenty-two shall include all the
183 territory in ward eleven lying east of Broad street.

184 *Precinct No. 23.* Precinct twenty-three shall include all the
185 territory in ward twelve lying west of Morris street.

186 *Precinct No. 24.* Precinct twenty-four shall include all the
187 territory in ward twelve lying east of Morris street.

188 *Precinct No. 25.* Precinct twenty-five shall include all the ter-
189 ritory in ward thirteen lying west of Thompson street and a con-
190 tinuous straight line to corporate line on north.

191 *Precinct No. 26.* Precinct twenty-six shall include all the ter-
192 ritory in ward thirteen lying east of Thompson street and a con-
193 tinuous stright line from the end thereof to the corporate line on
194 the north.

195 *Precinct No. 27.* Precinct twenty-seven shall include all the
196 territory in ward fourteen lying west of Kentucky street.

197 *Precinct No. 28.* Precinct twenty-eight shall include all the
198 territory in ward fourteen lying east of Kentucky street.

199 *Precinct No. 29.* Precinct twenty-nine shall include all the
200 territory in ward fifteen west of Porter's Branch.

201 *Precinct No. 30.* Precinct thirty shall onclude all the terri-
202 tory in ward fifteen east of Porter's Branch.

House Bill No. 149

(BY MR. KISER.)

[Introduced January 19, 1921; referred to the Committee on Education.]

House Bill No. 149

A BILL to enact and re-enact section one hundred and four of chap-
ter two of the acts of one thousand nine hundred and nineteen so
as to read as follows:

Be it enacted by the Legislature of West Virginia:

Section 104. Subject to all of the conditions set forth in this
2 section, first, grade elementary certificates valid for a period of
3 five years shall be issued to all applicants who are otherwise quali-
4 fied and who attain a general average of ninety per cent., with no

5 subject below seventy-five per cent; second grade elementary cer-
 6 tificates valid for a period of three years, shall be issued to ap-
 7 plicants who are otherwise qualified and who attain a general aver-
 8 age of eighty per cent, with no subject below sixty-eight per
 9 cent; and third grade elementary certificates valid for one year
 10 shall be issued to applicants who are otherwise qualified and who
 11 obtained a general average of seventy per cent, with no subject be-
 12 low sixty per cent; *provided*, that the third grade certificate shall
 13 not be issued more than twice to the same person.

14 The subject in which applicants for said certificates shall be
 15 examined, are otherwise qualified according to law, shall be read-

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16 ing, spelling, writing, English grammar and language, arithmetic,
 17 physiology and hygiene, United States and West Virginia history,
 18 general and West Virginia geography, civil government, theory
 19 and art of teaching, elementary agriculture, and such other sub-
 20 jects as the state board of education shall from time to time pre-
 21 scribe.

House Bill No. 153

(BY MR. MOORE, of Marshall.)

[Introduced January 19, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 153

A BILL to amend and re-enact section twenty-five of chapter one
 hundred thirty-one of the code of West Virginia, of one thous-
 and nine hundred thirteen, as enacted and amended by section
 twenty-five of chapter seventy-two of the acts of the legislature
 of one thousand nine hundred fifteen, regulating the instructions
 by courts to juries and relating to demurrers to evidence.

Be it enacted by the Legislature of West Virginia:

That section twenty-five of chapter one hundred thirty-one as last
 amended and enacted by section twenty-five of chapter seventy-two,
 acts of the legislature of one thousand nine hundred fifteen, relating

to and regulating the instructions of courts to juries, be amended and re-enacted so as to read as follows:

Section 25. Nothing herein contained shall effect the power of the court during the trial of the case to instruct the jury orally concerning matters not proper for their consideration or concerning the conduct of any person in connection with the trial; or, otherwise, on its own motion to instruct the jury in writing on the law of the case at any stage during the trial, subject to the right of exception by either party; but in no civil case shall the court upon its own motion or on motion of any party to the cause, strike out

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the evidence of either party and give a peremptory instruction to the jury directing a verdict. In every civil case, at the conclusion of the plaintiff's evidence the defendant may demur to the evidence; and after all the evidence has been introduced the court shall in no event direct a verdict, but in any such case either the plaintiff or defendant may demur to the evidence and the question arising upon such demurrer shall be governed and tested in all respects by the same principles as apply to a motion to set aside a verdict of a jury.

House Bill No. 298

(BY MR. TAYLOR.)

[Introduced January 21, 1921; referred to the Committee on Medicine and Sanitation.]

House Bill No. 298

A BILL to authorize the county court of Fayette county to establish and maintain a dental clinic for all resident children in said county under the age of sixteen years, to lay the necessary levies, to employ dentists and other help, to purchase equipment and supplies, and to prescribe rules and regulations for the government of said clinic.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Fayette county is hereby authorized and empowered to establish and maintain, in said county,

3 if authorized by a majority of the voters of said county, at the
4 next general election, as herein provided, a dental clinic for the
5 benefit of all resident children in said county, under the age of
6 sixteen years.

Sec. 2. Said county court is authorized to appoint, for a term
2 of four years, beginning on the first day of July next after the
3 adoption of the provisions of this act, and every four years there-
4 after, a competent dentist, with license to practice dentistry in the
5 state of West Virginia, who shall have had at least five years of
6 experience, who shall be known as county director of dental clinic
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7 and fix his salary, and said county director may be removed as
8 provided by section seven of chapter seven of the code of West
9 Virginia.

Sec. 3. Said county court is authorized to lay a levy not to
2 exceed ten cents on every one hundred dollars of valuation of the
3 taxable property in the county, according to the last assessment
4 thereof, beginning with the year next after the adoption of this
5 act, and each succeeding year thereafter to pay the expenses and
6 cost of establishing and maintaining said clinic, which shall be
7 known as the dental clinic fund.

Sec. 4. Said county director shall, with the approval of the
2 county court, employ as many dentists as may, in his judgment, be
3 necessary for the successful conduct of said clinic, who shall be in
4 good standing in their profession and licensed to practice dentistry
5 in the state of West Virginia. Said county court shall fix the
6 rate of fee of said dentists for the different classes of work pre-
7 scribed, and they shall be subject to the direction and control of
8 said county director, and may be removed or discharged by him at
9 any time he may deem advisable.

Sec. 5. Said county court may require said county director to
2 keep books of accounts and such other records and make such re-
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3 ports from time to time as may be prescribed by the court. And
4 all dentists employed shall furnish the county director with such
5 reports as he may require.

Sec. 6. All persons employed under this act shall be paid
2 quarterly, out of the fund herein before provided for, upon requis-
3 tion issued by the county director in the manner prescribed by the
4 county court.

Sec. 7. The county superintendent of schools, the boards of

2 education, the district superintendents and teachers, and all other
 3 persons employed in said county in connection with school work,
 4 shall assist and co-operate with said county director, and all per-
 5 sons employed by him in said clinical work.

Sec. 8. The county court shall not lay the levy herein pro-
 2 vided for, until authorized by the voters of the county at the next
 3 general election as provided for in section seven of chapter twenty-
 4 eight-a, of the code of West Virginia.

House Bill No. 195

(By MR. MC CLINTIC, of Kanawha)

[Introduced January 20, 1921; referred to the Committee on
 Taxation and Finance.]

House Bill No. 195

A BILL to provide for the appointment of a county manager in
 any county with a population exceeding sixty thousand and to
 provide for his compensation.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of any county with a population
 2 exceeding sixty thousand according to the last official census
 3 shall have authority to employ a fit and proper person as county
 4 manager. Such county manager shall serve at the pleasure of
 5 the county court and shall receive such compensation for his
 6 services as may be fixed by the county court not exceeding
 7 dollars annually, payable out of the general county
 8 fund.

9 The manager shall devote his entire time and attention to
 10 his employment and shall have supervision and control of the
 11 executive work of the county. He shall make all contracts for
 12 labor and supplies and generally perform all of the adminis-
 13 trative work of the county and such other duties as the county
 14 court shall prescribe. He shall be provided with an office in

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15 the court house and shall have such clerical and other assistants
 16 as may be provided for him by the county court.

17 It shall be the duty of the manager not later than the tenth
18 day of each month after his appointment to make a detailed
19 report to the county court for the preceding month. Such re-
20 ports shall show under distinct heads the names and salaries of
21 all employees under the control and supervision of the manager,
22 all expenditures or disbursements made by him or under his
23 supervision and control, an itemized statement of all purchases
24 together with the cost thereof and all such other matters and
25 things as the county court may require of said manager. Such
26 reports shall be made a permanent record in the office of the
27 county clerk and shall be open to the inspection of the public.
28 All employees under the supervision of the manager shall, when
29 required by said manager, make full and complete reports of
30 all things done by them as such employees in connection with
31 the business of the county.

House Bill No. 314

(By MR. FOUR)

[Introduced January 22, 1921; referred to the Committee on
Taxation and Finance.]

House Bill No. 314

A BILL imposing a tax upon bill-boards, wall spaces or other de-
vices used for advertising or display purposes.

Be it enacted by the Legislature of West Virginia:

Section 1. That an annual tax of two cents per square foot is
2 hereby imposed upon all bill-boards, wall spaces or devices used
3 for advertising or display purposes.

4 It shall be the duty of the state tax commissioner to collect this
5 tax from the owner of all such bill-boards, wall spaces or other
6 devices used for advertising or display purposes being maintained
7 and used in the state in the same manner that he collects other
8 taxes and the said tax commissioner shall deposit this tax so col-
9 lected with the state depository and cover the same into the
10 treasury of the state as it is his duty to do in the case of other
11 taxes collected by him.

12 The treasurer of the state shall maintain a separate fund of
13 such taxes under the name of "capitol building fund." This fund
14 shall be expended according to law for the purpose of constructing
15 and equipping a state capitol.

House Bill No. 198

(BY MR. FOUR)

[Introduced January 20, 1921; referred to the Committee on the Judiciary.]

House Bill No. 198

A BILL to repeal chapter fifty-three of the acts of the legislature of one thousand nine hundred and thirteen, which altered and modified the county court of Grant county under the twenty-ninth section of the eighth article of the constitution of West Virginia, and to provide for the election of county commissioners in said county in accordance with sections twenty-two and twenty-three of article eight of the constitution of West Virginia.

Be it enacted by the Legislature of West Virginia:

Section 1. That chapter fifty-three of the acts of the legislature, one thousand nine hundred and thirteen, which altered and modified the county court of Grant county under the twenty-ninth section of the eighth article of the constitution of West Virginia, be, and the same is hereby repealed.

Sec. 2. There shall be in the county of Grant, a county court, composed of three commissioners, and two of said commissioners shall be a quorum for the transaction of business. It shall hold four regular sessions in each year, at such times as may be fixed upon and entered of record by the said court. Provisions

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may be made by law for the holding of special sessions of said court.

Sec. 3. The commissioners shall be elected by the voters of the county, at the next general election after this act becomes

3 effective, and shall hold their office for the term of six years,
4 except that at the first meeting of said commissioners they shall
5 designate by lot or otherwise in such manner as they may de-
6 termine, one of their number who shall hold his office for the
7 term of two years, one for four years, and one for six years,
8 so that one commissioner shall be elected every two years, but
9 no two of such commissioners shall be elected from the same
10 magisterial district. And if two or more persons residing in
11 the same district shall receive the greater number of votes cast
12 at any election, then only the one of such persons receiving the
13 highest number shall be declared elected, and the person living
14 in another district, who shall receive the next highest number
15 of votes cast, shall be declared elected. Such commissioners
16 shall annually elect one of their number as president, and each
17 shall receive two dollars per day for his services in court, to
18 be paid out of the county treasury.

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Sec. 4. The term of office of the commissioners elected at
2 the last general election shall continue until the first day of
3 January after the next general election after this act becomes
4 effective.

House Bill No. 87

(BY MR. FREED.)

[Introduced January 17, 1921; referred to the Committee on Im-
migration and Agriculture.]

House Bill No. 297

(BY MR. WILLIAMSON.)

[Introduced January 21, 1921; referred to the Committee on Im-
migration and Agriculture.]

House Bill No. 87

A BILL to amend and re-enact sections eight and eleven of an act
of the legislature passed February seventeen, one thousand nine

hundred and seventeen, regarding the public service of stallions and jacks and providing penalty for violation thereof.

Be it enacted by the Legislature of West Virginia:

Section 8. Any owner of any bull, ram, or boar, kept for public service within the state of West Virginia, or any owner or keeper of any bull, ram or boar, kept for sale, exchange or transfer, who represents such animal to be pure bred, may cause the same to be registered in some herd, flock or record book as the case may be, recognized by the United States department of agriculture at Washington, D. C., for the registration of pedigrees, and obtain a certificate of registration of such animal. He may then forward the same to the commissioner of agriculture of the state of West Virginia, whose duty it shall be to examine and pass upon the correctness or genuineness of such certificate filed for enrollment. In making such examination said commissioner of agriculture shall use as his standard the record books recognized by the United States department of agriculture at Washington,

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D. C., and shall accept and enroll as pure bred, any animal registered in such record book. If such registration is found to be correct and genuine, he shall issue a certificate of enrollment under the seal of the department of agriculture of the state of West Virginia, which certificate shall set forth the name, breed, age and color of the animal and also the volume and name of the herd, flock or swine record book in which said animal is registered. Any owner or keeper of any bull, ram, or boar, kept for public service within the state of West Virginia, who represents or holds such animal as pure bred, may place on the door or stall where the animal is usually kept, a copy of the certificate of enrollment from the commissioner of agriculture as provided in section one of this act. *Provided*, that it shall be unlawful on and after January 1, one thousand nine hundred and twenty-two, for any person to keep any breeding animal for public service for pay, which is not pure bred and which has not been properly registered in accordance with this act.

Sec. 11. Any person who shall fraudulently represent any animal, horse, cattle, sheep or swine to be pure bred, or any person who shall post or publish, or cause to be posted or published any false pedigree or certificate, or shall use any stallion or other

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5 male breeding animal for public service, exchange or transfer any
6 such animal for service within the state of West Virginia, repre-
7 senting such animal to be pure bred without first having such
8 animal registered, and obtaining the certificate of commissioner of
9 of agriculture as hereinafter provided or who shall violate any
10 of the provisions of this act, shall be guilty of a misdemeanor and
11 shall be punished by a fine of not more than one hundred dollars
12 or be imprisoned in the county jail not exceeding thirty
13 days, or by both fine and imprisonment and it is hereby made the
14 duty of the prosecuting attorney of the county in which the viola-
15 tion takes place to prosecute the action.

House Bill No. 4

[BY MR. MCCLINTIC.]

Introduced Sept. 15, 1920. Referred to the Committee on the Judi-
ciary; reported without recommendation; rules suspended. Taken up
out of order, read a first time and ordered to second reading.

House Bill No. 4

A BILL to amend and re-enact section eight of Chapter three of
Barnes Code of nineteen hundred and sixteen.

Be it enacted by the legislature of West Virginia:

That section eight of chapter three of Barnes' Code of nineteen
2 hundred and sixteen, be amended and re-enacted so as to read as
3 follows:

4 Section 8. The commissioners of election of each precinct in
5 their district, shall appoint two poll clerks, one from each of the
6 political parties which cast the largest number of votes at the last
7 preceding general election in the state, and who are qualified
8 voters in their district. But if the voters of either of said parties
9 present at the election shall nominate, by *viva voce* vote, a quali-
10 fied voter of their party to act as poll clerk, such nominee shall be
11 appointed. And in case a dispute shall arise as to the nomination
12 so made, the commissioner or commissioners of election of the
13 party to which such nominee belongs, shall appoint such poll clerk.
14 But no person shall be appointed a commissioner of election or
15 poll clerk who has in his employe, or who as agent or superintend-

ent has under his control or management, ten employees who are legal voters. Provided, however, that for the general election. H. B. No. 4]

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tion to be held on the Tuesday after the first Monday in November in the year nineteen hundred and twenty, the commissioners of election, at every precinct where the registration of voters for that precinct (as shown by the registration books then received by them from the county clerk) shows two hundred voters or more, shall appoint two additional poll clerks, either one or both of whom may be female voters of the precinct, one from each of said political parties to be selected by the commissioner or commissioners of the political party to which the registrar is appointed, who shall take the same oath, perform the same duties, and receive the same compensation as clerks of the receiving board. And at said general election in November, nineteen hundred and twenty, the number of booths or compartments at each voting place, where the registration of voters therefor shows two hundred voters or more, shall be not less than five nor more than ten and not more than one voter for each booth or compartment shall be allowed in the election room at one time. All election officers in the various precincts in West Virginia for the additional work required of them in reference to the registration of new voters shall, in addition to the amount now allowed by law, be paid the sum of two dollarse for their work on election day.

House Bill No. 3

[BY MR. MCCLINTIC.]

Introduced Sept. 15. Reported back without recommendation. Rules suspended, taken up out of order, read a first time and ordered to second reading.

House Bill No. 3

A BILL to amend and re-enact section ninety-eight-a-eleven of chapter six of the acts of West Virginia, extraordinary session of one thousand nine hundred and sixteen.

Be it enacted by the Legislature of West Virginia:

That section ninety-a-eleven of chapter six of the acts of West Virginia, extraordinary session of one thousand nine hundred and sixteen, be amended and re-enacted so as to read as follows:

Section 98 a-XI. No person shall be allowed to vote at any election hereafter held in this state unless he shall have been registered as herein provided and the commissioners of every election shall allow only those to vote whose names appear upon the registration books furnished by the clerk of the county court to them, or who present a proper certificate of transfer, as herein provided. *Provided, however,* that for the general election to be held on the Tuesday next after the first Monday in November in the year 1920, every woman of this state who is not a minor, or of unsound mind, or a pauper, or who is not under conviction of treason, felony or bribery in an election, and who has been a resident of the state for

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one year, and of the county in which she offers to vote for sixty days next preceding such election, and who is at the time of the election an actual and *bona fide* resident of the election precinct in which she offers to vote, shall be permitted to vote at said election without being registered as required in chapter three of the code, and the commissioners of election shall thereupon require all legal voters, who present themselves to vote, who have become such since the registration made before the last primary election, in the registration books received by them from the county clerk; but for all elections other than that held on the Tuesday next after the first Monday in November in the year 1920, no woman shall be entitled to vote without having been registered as required by said chapter.

And any commissioner of election who shall wilfully violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty nor more than one hundred dollars, and imprisoned in the county jail not less than ten nor more than ninety days for every such offense.

If any person offering to vote shall be challenged by a challenger, or by any commissioner of election, he or she shall stand

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aside and not be entitled to vote unless he or she makes affidavit in writing before one of the commissioners of election, that he or she is a qualified and legal voter of the precinct, and, in such affi-

36 davit, sets forth his or her name, age, residence, occupation, place
37 or places of residence during the twelve months next prior to the
38 election, with the date of any removal within that time, and the
39 names of two persons, who have personal knowledge of his or her
40 residence within the county sixty days next preceding the election.
41 Forms of affidavits to be used in such cases shall be prepared and
42 printed under the direction of the board of ballot commissioners
43 and distributed to the several places of voting at the same time
44 the ballots, poll books, etc. are sent to said places.

45 If at any time during the election any qualified voter shall
46 make affidavit, before a commissioner of election, that any person
47 who has voted is an illegal voter in such precinct the person ac-
48 cused shall at once be arrested by any constable or other person
49 designated by the election commissioners to make the arrest, and
50 by him delivered to the civil authorities. Any person desiring to
51 make such affidavit shall be admitted to the election room for that
52 purpose. Immediately after the close of the election, the com-
53 missioners of election shall deliver such affidavit to some justice

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54 of the peace in the magisterial district, who shall proceed thereon
55 as if the affidavit had been made before him.

56 Whoever shall knowingly or wilfully, make a false affidavit,
57 under any of the provisions of this chapter, shall be deemed guilty
58 of perjury, and on conviction thereof shall be confined in the pen-
59 itentiary not less than one nor more than three years.

60 *Provided, further,* that in any county where new election pre-
61 cincts have been established since the 25th day of May, 1920, and
62 prior to the passage of this act, in the manner prescribed by law,
63 the county court shall within ten days after this act goes into ef-
64 fect, appoint registrars in the same manner and upon the same
65 request or recommendation now prescribed by law, for each of said
66 newly created precincts, which said registrars shall immediately
67 proceed to register the male voters in said precinct in the man-
68 ner now prescribed by law, and for their services said registrars
69 shall be allowed the same compensation now provided for such
70 service to be audited and paid by the county court out of the
71 county treasury.

House Bill No. 457

(BY MR. BARNES.)

[Introduced January 25, 1921; referred to the Committee on Railroads.]

Senate Bill No. 192

(BY MR. GODBEY.)

[Introduced January 25, 1921; referred to the Committee on Railroads.]

House Bill No. 457

A BILL extending the times within which, and the terms upon which, railroad companies heretofore organized under the laws of this state since the first day of January, one thousand nine hundred and two, may commence the construction of their roads, if such construction has not already been commenced, and complete the same and put them in operation, whether heretofore begun or not.

Be it enacted by the Legislature of West Virginia:

Section 1. Any railroad company heretofore organized under the laws of this state since the first day of January, one thousand nine hundred and two, which shall have heretofore spent, or which shall hereafter, and within two years from the passage of this act, actually and in good faith spend, upon the construction of its road, twenty per centum of its stock actually subscribed, and shall also within five years after the passage of this act complete and put in operation its road, then and in every such case, the corporate existence, franchises and powers of such railroad company shall be and remain the same as though the provisions of section sixty-six of chapter seventeen of the acts of

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one thousand eight hundred and eighty-one had been fully complied with by such company, and no forfeiture or judgment of ouster shall be rendered against said company by reason of its failure to comply with said section. But if any such railroad company has not heretofore spent, or shall not within two years

17 from the passage of this act spend in good faith, upon the actual
 18 construction of its road twenty per centum of its subscribed
 19 capital, and shall not finish its railroad and put it in operation
 20 within five years from the passage of this act as aforesaid, its
 21 corporate existence and powers shall cease; except that if any
 22 such corporation shall have, within the time limited by this act,
 23 constructed a portion of its road and put the same, or some part
 24 thereof so completed, into actual operation, its corporate powers
 25 and rights shall be preserved as to all of the said road so com-
 26 pleted and in operation. But this shall not be construed to prevent
 27 any railroad corporation organized prior to one thousand nine hun-
 28 dred and two, which has heretofore filed a location of its line, paid
 29 to the state of West Virginia the license taxes due and constructed
 30 a portion of its railroad, from exercising its corporate powers and
 31 from completing its railroad as located within five years from
 32 this date.

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Sec. 2. All acts and parts of acts coming within the purview
 2 of this act and inconsistent therewith are hereby repealed.

House Bill No. 6

[BY MR. KUYKENDALL.]

[Introduced September 15, 1920. Referred to Committee on the
 Judiciary: Reported back without recommendation. Rules sus-
 pended. Taken up out of regular order, read a first time and ordered
 to second reading.]

House Bill No. 6

A BILL to amend and re-enact section fifty-nine of chapter twen-
 ty-nine of the code of West Virginia, one thousand nine hundred
 and sixteen edition, relating to persons subject to capitation tax.
Be it enacted by the Legislature of West Virginia:

Section 5-a. That every assessor shall ascertain and list for
 2 taxation all persons over the age of twenty-one years, residing in
 3 the county on the first day of the assessment year, and not ex-

4 emptied by the county court from taxation on account of bodily
 5 infirmity, and shall include in the said list all persons who re-
 6 move into said county between the first day of the assessment year
 7 and the time the assessments are made out; the persons who pay the
 8 capitation tax in one county shall be exonerated from paying the
 9 the same in any other for that year, but as evidence of payment
 10 must produce the capitation tax receipt when required by the as-
 11 sessor to do so.

House Bill No. 8

[BY MR. KUYKENDALL.]

Introduced Sept. 15, 1920. Referred to Committee on Judiciary;
 Sept. 16; reported back without recommendation. Rules suspended;
 taken up out of order, read a first time and ordered to second reading.

House Bill No. 8

A BILL to amend and re-enact section sixteen of chapter twenty-five
 of the acts of eighteen hundred and ninety-three, and section six-
 teen of chapter three of the code of West Virginia, nineteen hund-
 red and sixteen edition, relating to persons entitled to vote and
 places of voting.

Be it enacted by the legislature of West Virginia:

Section 16. That all citizens of the state shall be entitled to
 2 vote at all elections held within the precincts of the counties in
 3 which they respectively reside; but no person who is a minor, or
 4 of unsound mind, or a pauper, or who is under conviction of trea-
 5 son, felony, or bribery in an election, or who has not been a resi-
 6 dent of the state for one year, and of the county in which he offers
 7 to vote for sixty days next preceding such election, and who is not
 8 not at the time of election, an actual bona fide resident of the elec-
 9 tion precinct in which he or she offers to vote, and who shall not
 10 have paid his or her capitaion tax for the year in which, and the
 11 year preceding which, the election at which he or she proposes to
 12 vote is held, shall be permitted to vote at such election, while such
 13 disability continues; and no person in the military, marine or
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14 naval service of the United State shall be deemed a resident of this
15 state, by reason of he or she being stationed therein; nor shall any
16 person in the employment of any incorporated company, or of this
17 state, be deemed a resident of any county, or of any election pre-
18 cinct therein, by reason of being employed in said county or elec-
19 tion precinct. *Provided*, That said capitation tax shall have been
20 paid at least five days preceding the election at which said voter
21 proposes to vote.

House Bill No. 49

(BY MR. MIDELBURG)

[Introduced January 17, 1921; referred to the Committee on Rail-
roads.]

House Bill No. 49

A BILL to regulate the time and manner in which common carriers
doing business in this state shall adjust and pay just freight
charges and claims for loss or damage to freight and claims for
storage, demurrage, and car service.

Be it enacted by the Legislature of West Virginia:

Section 1. That every claim against a common carrier doing
2 businesses in this state for loss or damage to property while in the
3 possession of such common carrier shall be adjusted and paid with-
4 in ninety days in case of shipments wholly within this state, and
5 within one hundred and twenty days in case of interstate ship-
6 ments, after the filing of such claim, verified of affidavit with the
7 agent of such carrier at the point of destination of such shipment
8-9 or with the claims department of such common carrier. No
10-11 such claims shall be filed until after the arrival of shipment
12 or some part thereof at the point of destination or until after the
13 lapse of a reasonable time for the arrival thereof, when such claim
14 is for loss or damage to freight. In every case such carrier shall
15 be liable for the amount of such loss or damage to freight, together

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16 with interest thereon from the expiration of said ninety days or

17 one hundred and twenty day periods, respectively the date of the
18 filing of said claim therefor until the payment thereof. Failure
19 to adjust and pay such claim within the periods herein respectively
20 prescribed, shall subject such common carrier so failing to a pen-
21 alty of twenty-five dollars for each and every failure, to be re-
22 covered by such claimant so aggrieved in the same action or pro-
23 ceeding in any court or before any justice having competent juris-
24 diction in this state; *provided*, that unless such claimant recover
25 in such action the full amount claimed by him, no penalty shall be
26 recovered but only the actual amount of the loss or damage to
27 freight with interest as aforesaid; and *provided, further*, that if
28 in such action or proceedings, such claim shall be found to be fraud-
29 ulent the claimant shall pay to the carrier a penalty of twenty-five
30 dollars, to be recovered along with the costs. If, after such periods
31 above prescribed, the carriers shall voluntarily pay the full amount
32 of the claim, then such penalty alone may be recovered as afore-
33 said by the claimant.

Sec. 2. In any action which may be instituted pursuant to this
2 act before a justice of the peace, or other court of competent juris-
3 diction for an amount not exceeding three hundred (\$300.00) dol-
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4 lars, either party at or before the return day of the summons may
5 file an affidavit relating to the subject matter and the other party
6 to such action shall have a right to a continuance for a reasonable
7 time; *provided*, that any party to such action may give reasonable
8 notice to the party filing such affidavit and take the deposition of
9 the affiant or affiants, at such time and place as may be fixed in
10 such notice, the taking of such deposition to be governed by the
11 rules of law in force regarding the cross examination of witnesses.
12 Such affidavits and depositions shall be read with the same force
13 and effect as is taken in the form of a deposition after due notice
14 to the other party. In the event of appeal of any such action such
15 affidavits and depositions shall be read in the appellate court with
16 the same force and effect as before the justice of the peace, or
17 other trial court.

House Bill No. 281

(By MR. STROTHER)

[Introduced January 21, 1921; referred to the Committee on the Judiciary.]

Senate Bill No. 177

(By MR. YORK)

[Introduced January 21, 1921; referred to the Committee on the Judiciary.]

House Bill No. 281

A BILL to amend and re-enact sections one, three and five of chapter twelve of the acts of the legislature of West Virginia, one thousand nine hundred and nineteen, extraordinary session, relating to the department of public safety.

Be it enacted by the Legislature of West Virginia:

That sections one, three and five of chapter twelve of the acts of the extraordinary session of the legislature, one thousand nine hundred and nineteen be amended and re-enacted so as to read as follows:

Section 1. A department of public safety is hereby created, the executive and administrative head of which shall be a superintendent, who shall be appointed by the governor by and with the consent of the senate, for a term of four years. The superintendent shall be on the date of his appointment at least thirty years of age. He shall receive an annual salary of four thousand dollars to be paid as provided by law.

Sec. 3. The superintendent with the advice and consent of the governor, shall appoint a deputy who shall receive an annual salary of three thousand dollars. The superintendent shall appoint one clerk, who shall be a competent bookkeeper, and who shall

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5 receive an annual salary of twenty-one hundred dollars and also
6 appoint a competent stenographer whose salary shall be fixed by
7 the board of public works.

Sec. 5. The superintendent shall create and equip a department

2 of public safety, which shall consist of two companies or platoons.
3 The governor may direct the supreintendent to create and equip
4 additional companies or platoons, if in his judgment the service
5 requires it, but such additional companies or platoons shall not ex-
6 ceed two.

7 Each company or platoon shall be composed of one captain who
8 shall receive a nannual salary of twenty four hundred dollars.

9 One lutenant who shall receive an annual salary of twenty-one
10 hundred dollars, one first sergeant who shall receive an annual sal-
11 ary of eighteen hundred dollars, four corporals who shall receive an
12 annual salary of sixteen hundred dollars each and such number of
13 privates as the superintendent may decide to be best, but such
14 number of privates shall not at any time be less than thirty nor
15 more than fifty-five in any one company or platoon. Each pri-
16 vate shall receive an annual salary of fifteen hundred dollars.
17 Each member of the department of public safety, except the su-
18 perintendent, bookkeeper and stenographer, shall before entering
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19 upon the discharge of his duties execute a bond with security in
20 the sum of thirty-five hundred dollars, payable to the state of
21 West Virginia, conditioned for the faithful performance of his
22 duties as such, and such bond shall be approved, as to form by the
23 attorney general and as to sufficiency by the board of public works
24 and the same shall be filed with the secretary of state and pre-
25 served in his office.

House Bill No. 338

(BY MR. WARD)

[Introduced January 24, 1921; referred to the Committee on Insurance.]

House Bill No. 338

A BILL prohibiting insurance without the consent of the insured.

Be it enacted by the Legislature of West Virginia:

No policy of insurance shall be issued upon any property except
2 upon the application and in the name of some person having an

3 interest in the property. No policy or agreement for insurance
4 shall be issued upon the life or health of another or against loss
5 by disablement by accident except upon the application of the per-
6 son insured; but a wife may take a policy of insurance upon the
7 life or health of her husband against loss by his disablement by ac-
8 cident; an employer may take out a policy of insurance covering
9 his employees collectively, for the benefit of such as may suffer loss,
10 from injury, death or disablement resulting from sickness, and a
11 person liable for the support of a child of the age of one year and
12 upward may take a policy of insurance thereon, the amount pay-
13 able under which may be made to increase with advancing age and
14 which shall not exceed the sum specified in the following table, the
15 ages wherein specified being the ages at time of death, for an
16 amount not exceeding the sum specified in the table:

17 Between the ages of one and two years, fifty dollars.

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18 Between the ages of two and three years, sixty dollars.

19 Between the ages of three and four years, seventy dollars.

20 Between the ages of four and five years, eighty dollars.

21 Between the ages of five and six years, one hundred dollars.

22 Between the ages of six and seven years, one hundred and fifty
23 dollars.

24 Between the ages of seven and eight years, two hundred dollars.

25 Between the ages of eight and nine years, two hundred and fifty
26 dollars.

27 Between the ages of nine and ten years, three hundred dollars.

28 Between the ages of ten and eleven years, three hundred and fifty
29 dollars.

30 Between the ages of eleven and twelve years, four hundred and
31 fifty dollars.

32 Between the ages of twelve and thirteen years, five hundred and
33 fifty dollars.

34 Between the ages of thirteen and fifteen years, seven hundred
35 and fifty dollars.

36 Between the ages of fifteen and twenty-one years, one thousand
37 dollars.

38 In respect to insurance by any person not of the full age of
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39 twenty-one years, but of the age of fifteen years and upwards, ef-
40 fected upon the life of such minor, for the benefit of such minor, or

41 for the benefit of the father, mother, husband, wife, brother or sis-
 42 ter of such minor, the assured shall not, by reason only of such
 43 minority, be deemed incompetent to contract for such insurance or
 44 for the surrender of such insurance, or to give a valid discharge for
 45 any benefit accruing, or for money payable under the contract.

House Bill No. 161

(BY MR. HINER, by request.)

[Introduced January 21, 1921; referred to the Committee on the Judiciary.]

House Bill No. 161

A BILL relating to houses of prostitution and defining prostitution.
Be it enacted by the Legislature of West Virginia:

That section ten of chapter one hundred and forty-nine of the code of West Virginia, relating to houses of prostitution, be amended and re-enacted so as to read as follows, and that sections ten-*a*, ten-*b*, ten-*c* ten-*d*, ten-*e*, ten-*f* and ten-*g* be added thereto.

Section 10. If any person sets up, maintains, or operates any
 2 place, structure, building or conveyance for purposes of prostitu-
 3 tion, lewdness or assignation; or if any person occupies any place,
 4 structure, building or conveyance for purposes of prostitution; or
 5 if any person permits any place, structure, building or conveyance
 6 under his control to be used for purposes of prostitution, lewdness,
 7 or assignation, when he knows, or has good reasons or reasonable
 8 cause to know that the same is to be used, or is used for such pur-
 9 poses; or if any person reside in, enter, or remain in any place,
 10 structure, or building for purposes of prostitution, lewdness, or
 11 assignation, or enters or remains in any conveyance for such pur-
 12 poses; or if any person receive or offers to receive, or agrees to
 13 receive any person into any place, structure, building or conveyance

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14 for purposes of prostitution, lewdness or assignation; or if any
 15 person permits another person to remain there for such purposes;
 16 or if any person directs, takes, transports, or offers or agrees to
 17 take or transport any person to any such place, structure, or build-

18 ing, or to another person with reasonable cause to know, or does
19 know that the purpose of such directing, taking, or transporting is
20 prostitution, lewdness, or assignation; or if any person aids, or
21 abets prostitution, lewdness or assignation by any means whatso-
22 ever or if any person procures or solicits, or offers to procure or
23 solicit for purposes of prostitution, lewdness or assignation; or if
24 any person solicits another person to perform an act of prostitu-
25 tion or lewdness, either with the solicitor, or another person, he
26 shall be guilty of a misdemeanor, and shall be punished by a fine
27 of not less than twenty-five, nor more than one hundred dollars,
28 and shall be confined in jail not fewer than ten days, and not
29 more than sixty days, and in addition to such fine and imprison-
30 ment, or in lieu of such fine and imprisonment, the court or justice
31 trying the case may require the defendant to enter into a good and
32 sufficient bond in the penalty of not less than one hundred dollars
33 and not more than five hundred dollars, conditioned that the de-
34 fendant will keep the peace and particularly will not violate any
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35 provisions of this section for a period of twelve months from the
36 date of the bond, or if in the opinion of the court or justice trying
37 the case it would be better for the defendant to be paroled or
38 placed on probation, any other punishment herein provided may
39 be suspended in whole or in part, and the defendant may be re-
40 leased on parole or probation as hereinafter to be provided.

41 Each day any such place, structure, building or conveyance,
42 herein mentioned, is set up, maintained, operated, occupied, re-
43 sided in, or permitted to be set up, maintained, operated, or re-
44 sided in as a place of, and for purposes of prostitution, lewdness
45 or assignation, shall be considered a separate offense hereunder.

Sec. 10-a. The term "prostitution" shall be construed to in-
2 clude the offering of the body or the receiving of the body for
3 sexual intercourse for hire, and shall also include the offering or
4 receiving of the body for indiscriminate sexual intercourse with-
5 out hire. The term "lewdness" shall be construed to include any
6 indecent act or obscene act. The term "assignation" shall be con-
7 strued to include the making of any appointment or engagement
8 for prostitution or lewdness, or any act in furtherance of such an
9 appointment or engagement. The terms, "houses of ill-fame"
10 and "bawdy-house" shall be construed to include any house, struc-

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ture or building, or any room or rooms in any house, structure
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12 or building, where persons may resort and do resort for purposes
13 of prostitution, or lewdness.

Sec. 10-*b*. In the trial of any person charged with an offense
2 under section ten (10) of this act, testimony concerning the repu-
3 tation of such place, structure or building or conveyance, and
4 also testimony concerning the reputation of any person or persons
5 who resides in, occupies, or frequents the same, and the reputa-
6 tion of the defendant shall be admissible in support of the charge;
7 and in proving reputation, the record of any circuit court, criminal
8 court, intermediate court, municipal or police court, or that of a
9 justice of the peace, or other tribunal having jurisdiction, may be
10 admitted to show a former conviction of the person whose reputa-
11 tion is being proved, where the record shows a conviction of the
12 person of any offense involving sex-immorality, such as adultery,
13 fornication or prostitution and then when upon the trial of any
14 person charged hereunder with having set up, maintained, operat-
15 ed, occupied, or resided in any place, structure, or building for
16 purposes of prostitution, lewdness or assignation, or of having
17 permitted any such place, structure or building to be so used, it
18 appears from the testimony that the place, structure or building

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19 alleged in the indictment or complaint, as being so set up, main-
20 tained, occupied, operated, or resided in, is by common reputa-
21 tion known as a house of ill-fame, bawdy-house, or house of like
22 character or kind, then it shall be presumed that said place, struc-
23-26 ture or building was set up, maintained, operated, occupied, or
27 resided in for purposes of prostitution, lewdness, or assignation, or
28 was permitted to be used, set up, maintained, occupied, operated
29 or resided in for purposes of prostitution, lewdness, or assigna-
30 tion; and that all male persons over the age of fourteen years,
31 other than the immediate members of the family, or practicing
32 physicians, ministers of the gospel, or officers of the law, in the
33 proper discharge of their official duties, professions or callings,
34 who shall remain in any such place, structure, or building having
35 the reputation aforesaid, after the hour of six o'clock in the even-
36 ing, or who enters any such place, structure, or building as afore-
37 said, after said hours, or before the hour of six o'clock in the
38 morning, shall be presumed to have remained in, or entered such
39 place, structure or building for purposes of prostitution, lewdness
40 or assignation as contemplated herein.

Sec. 10-c. Where a person is convicted upon any charge under section ten of this act, and the element of sex-immorality enters
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3 into the offense, said justice shall sentence said defendant to be
4 confined in jail not less than the minimum term set out for such
5 offenses, and shall immediately notify the local health officer hav-
6 ing proper jurisdiction, of the case, and said local health officer
7 shall require an examination to be made to ascertain whether said
8 person so convicted is infected with a venereal disease; and if so
9 shall make all necessary arrangements to secure medical treat-
10 ment therefor, and to prevent the spread thereof, and to this end
11 said health officer shall declare the party under quarantine in
12 the jail if he sees proper, or may make arrangements to have the
13 person quarantined or detained at some other place, and when the
14 quarantine is declared, the justice or judge trying the case may
15 then suspend the remainder of the jail sentence.
16 All costs of detention after the quarantine is declared shall
17 be a proper charge against the city, if the offense was committed
18 therein, or against the county if committed outside of an incorpo-
19 rated city or town.

Sec. 10-d. Justices of the peace shall have jurisdiction to try
2 and determine any and all offenses growing out of section ten of
3 this act, and to place under parole or on probation any person
4 convicted hereunder, where the person so convicted would not be
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5 a proper subject to be taken under some other jurisdiction as a
6 ward or delinquent, and may also make proper orders to carry out
7 the provisions or requirements hereunder.

Sec. 10-e. Any person convicted under this act who may be
2 paroled or placed on probation, shall be placed on probation in
3 the care of a probation officer designated by law, or one appointed
4 by the judge or justice, for the purpose, upon the recommendations
5 of five responsible citizens, and wherever possible girls and women
6 shall be placed in charge of a woman officer, designated or ap-
7 pointed as aforesaid.

Sec. 10-f. Every justice of the peace upon information being
2 made before him, under oath or affirmation, that affiant knows, or
3 has good cause to believe and does believe, that any place, struc-
4 ture, building, or conveyance is being set up, or is set up, main-
5 tained, operated, occupied, or resided in for purposes of prosi-
6 tution, lewdness or assignation whether the names of such persons,

7 alleged as setting up, maintaining, occupying, operating, or resid-
8 ing, in any such place be known to affiant or not, shall issue his
9 warrant, requiring the place, structure, building, or conveyance
10 mentioned in the complaint, to be searched, and all persons found
11 therein to be arrested and brought before him, there to be dealt

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12 with as provided by law, and to answer any other charge that may
13 be made against them by reason of the results of said search; and
14 if any place, structure, building or conveyance is being set up,
15 maintained, occupied, operated, or resided in, in such a way that
16 the persons or person setting up, maintaining, occupying, operat-
17 ing or residing therein, cannot be identified or arrested, any
18 sheriff, constable, or other officer charged with executing any
19 warrant hereunder, may, whenever it is necessary, for the arrest
20 or identification of the persons therein, break open any such place,
21 structure, building or conveyance.

22 All other proceedings in so far as a justice of the peace shall act
23 under this act, shall be in conformity with sections one hundred
24 and twenty-one to two hundred and thirty inclusive of chapter
25 fifty (50) of the code of West Virginia, and the conviction of a
26 person in a municipal or police court, of a violation of a city
27 ordinance covering offenses of a similar nature, shall be no bar
28 to a prosecution before a justice for an offense under this act.

Sec. 10-g. Declaring by the courts of any part or provision
2 of this act as being in violation of the constitution of the state,
3 shall not invalidate the remaining provisions thereof.

Sec. 10-h. All acts, and parts of acts, in conflict with the pro-
2 visions of this act, are hereby repealed.

House Bill No. 96

(BY MR. DOWNS)

[Introduced January 19, 1921; referred to the Committee on the
Judiciary.]

Senate Bill No. 215

(BY MR. HENSHAW)

[Introduced January 24, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 96

A BILL to amend and re-enact section one-w, of chapter one hundred and thirty-two of the acts of the Legislature of West Virginia, session of one thousand nine hundred and nineteen, relating to the terms of court in the twenty-third judicial circuit.

Be it enacted by the Legislature of West Virginia:

That section one-w of chapter one hundred and thirty-two of the acts of West Virginia, regular session of the legislature, one thousand nine hundred and nineteen, be amended and re-enacted so as to read as follows:

Twenty-Third Circuit.

Section 1-w. For the county of Morgan, on the first Tuesday 2 in January, the first Tuesday in April, and first Tuesday in 3 September.

4 For the county of Jefferson on the third Tuesday in January, 5 the third Tuesday in April, and the third Tuesday in September.

6 For the county of Berkeley on the third Tuesday in February, 7 the third Tuesday in May, and the third Tuesday in October.

House Bill No. 231

House Bill No. 231

(BY MR. JONES, by request.)

A BILL to protect the traveling public and employees upon railroads by stipulating what will constitute a full crew on passenger and freight trains in the state of West Virginia.

Be it enacted by the Legislature of West Virginia:

Section 1. That it shall be unlawful for any railroad company, 2 terminal company, corporation, firm, individual, receiver or 3 trustee operating a railroad in the state of West Virginia, to run 4 or permit to be run over its tracks outside of yard limits, any 5 passenger train carrying passengers, without the following crew,

6 to-wit: Not less than one engineer, one fireman, one conductor,
7 one baggage master and one flagman; and *provided further* that
8 where five or more cars are coupled in one train, an additional
9 brakeman must be added; this not to include the train porters,
10 pullman or express employees, and said flagman and brakeman
11 must be competent and have passed the company's prescribed
12 examination.

Sec. 2. That it shall be unlawful for any railroad company,
2 its officers, agents, receivers or any person or persons having con-
3 trol of the operation of freight trains doing business in this state,

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4 to run or cause to be run or operated over its road or any part
5 thereof, any freight train consisting of more than thirty freight
6 or other cars exclusive of caboose and engine with a train crew
7 consisting of less than six persons, to-wit: One engineman, one
8 fireman, one conductor, one flagman and two brakemen.

Sec. 3. That it shall be unlawful for any railroad company,
2 its officers or agents, receivers or any person or persons having con-
3 trol of the operation of freight trains doing business in this state
4 to run or operate over its road or any part of its road, or to per-
5 mit to run or operate over its road, or any part of its road, any
6 freight train consisting of less than thirty freight or other cars
7 exclusive of caboose and locomotive with a train crew consisting
8 of less than five persons, to-wit: One engineman, one fireman,
9 one conductor, one flagman and one brakeman. *Provided,*
10 *further,* that an engine or engines without cars running over
11 three miles on main track shall have not less than one engine-
12 man, one fireman and one flagman or conductor.

Sec. 4. That it shall be unlawful for any railroad company,
2 its officers or agents, receivers or any person or persons having
3 control of the operation of freight trains doing business in this
4 state, to run or operate over its road, or any part of its road, or to
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5 permit to be run or operated on its road, or any part of its road,
6 any way freight, mine run, pick up, or set off run, work or wreck
7 train, with train crew consisting of less than six persons, to-wit:
8 One engineman, one fireman, one conductor, one flagman and
9 two brakemen.

Sec. 5. Any railroad company, its officers or agents, receivers
2 or any person or persons having control of the operation of

3 freight trains doing business in this state, who shall violate any
4 of the provisions of this act, shall be guilty of a misdemeanor and
5 upon conviction shall be fined the sum of one hundred dollars.

Sec. 6. Suits for the violation of this act may be instituted in
2 any county of the state having jurisdiction of the subject matter
3 by any prosecuting attorney of said county, and the fines recovered
4 hereunder for violations of this act shall be subject to the same
5 disposition as other fines collected for the violation of the laws
6 of this state.

House Bill No. 233

(BY MR. LUSK.)

[Introduced January 20, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 233

A BILL to amend and re-enact chapter fifty-nine, of the acts of the
legislature of West Virginia, of the regular session of one thou-
sand nine hundred and nineteen.

Be it enacted by the Legislature of West Virginia:

That chapter fifty-nine of the acts of the legislature of the regu-
lar session of one thousand nine hundred and nineteen, be amended
and re-enacted so as to read as follows:

If any horses, mules, cattle, sheep, hogs or goats, shall enter
into any grounds enclosed by a lawful fence, the owner or
manager of any such animal shall be liable to the owner of such
grounds for any damage that he may sustain thereby; and for
every successive trespass by such animal or animals, the owner
thereof shall be liable in damages in double the amount thereof,
and after having given at least five days' notes in writing to
the owner or manager of such animal, of the fact of two previous
trespasses, the owner or occupier of such grounds shall be en-
titled to such animal if it be found again trespassing on said
grounds. It shall be unlawful for any such animal to run at
large on any public road or highway, or railroad right-of-way

16 in this state where such road or highway is enclosed on both
17 sides thereof by a lawful fence, or any river considered a lawful
18 fence; and should such stock while running at large destroy or
19 injure the property of another, the owner shall be guilty of a
20 misdemeanor and fined not less than five dollars and not more than
21 ten dollars, and shall pay to the party whose property may be
22 injured or destroyed, the amount of damages sustained by him by
23 reason of such destruction or injury. And the party so injured,
24 may, if he find such stock on his premises, retain them, or a suf-
25 ficient number thereof, until said damages and cost of keeping
26 be paid. It shall also be unlawful for any male sheep or goats,
27 over four months old, bull over six months old, or hog over four
28 months old to run at large, and if the owner of such property
29 permit same to run at large, he shall be guilty of a misdemeanor
30 and be fined not less than five dollars and not more than ten dol-
31 lars, and the owner of such animal shall pay to the party whose
32 property may be injured, the amount of damages sustained by
33 him by reason of the running at large of any such animal.

34 All acts and parts of acts inconsistent herewith are hereby
35 repealed.

House Bill No. 466

(BY MR. STROTHER)

[Introduced January 26, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 466

A BILL to amend and re-enact section eleven, of chapter one hun-
dred and fifty, of Barnes' code of West Virginia, one thousand
nine hundred and eighteen, relating to the public service com-
mission.

Be it enacted by the Legislature of West Virginia:

That section eleven of chapter one hundred and fifty of Barnes'
code of West Virginia, one thousand nine hundred and eighteen,
be amended and re-enacted so as to read as follows:

Section 11. Any person, firm, association of persons, public

2 officer, public or private corporation, municipality or county,
 3 complaining of anything done or permitted to be done by any
 4 public service corporation subject to the provisions of this act,
 5 in contravention of the provisions thereof, or any duty owing
 6 by it under the provisions of this act may present to the com-
 7 mission a petition which shall succinctly state all the facts;
 8 whereupon a statement of the charges thus made shall be for-
 9 warded by the commission to said public service corporation
 10 which shall be called upon to satisfy such complaint or to answer
 11 the same in writing within a reasonable time to be specified by

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12 the commission. If such public service corporation within the
 13 time specified shall fail to make reparation for the injury alleged
 14 to have been done or correct the practice complained of, and
 15 shall fail to obey the law and discharge its duties in the premises,
 16 then it shall be liable in punitive damages to any such person,
 17 firm, association of persons, public officer, public or private cor-
 18 poration, municipality or county, aggrieved or injured by such
 19 failure; which said action for damages shall be cognizable in
 20 any court of competent jurisdiction. And in addition thereto
 21 shall be fined for every such offense not less than five hundred
 22 nor more than five thousand dollars.

23 All acts and parts of acts in conflict herewith are hereby re-
 24 pealed.

House Bill No. 399

(By MR. BUTTS)

[Introduced January 25, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 399

A BILL to prohibit tipping and extortion at hotels, restaurants
 and all other public eating places in this state.

Be it enacted by the Legislature of West Virginia:

Section 1. That the proprietor, keeper or manager of any
 2 hotel, restaurant or other public eating place within this state

3 are hereby prohibited from permitting the acceptance of any
4 tips, gratuity or other extortion by any waiter, porter, clerk or
5 other person in the employ of or working about such hotel,
6 restaurant or other public eating place, and the permitting of
7 any such acceptance of tips, gratuity or other extortion is here-
8 by declared unlawful. This section shall extend to and pro-
9 hibit the acceptance by such employee of any tip, gratuity or
10 other thing of value in addition to the regular and specified price
11 of food served.

Sec. 2. It shall be the duty of the proprietor, keeper or man-
2 ager of every hotel, restaurant or other public eating place
3 within this state to keep posted in a conspicuous place, both in
4 the office and in each dining room thereof, a placard bearing in
5 large, plainly visible type the words "no tipping allowed here."

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Sec. 3. Any person violating the provisions of this act shall
2 be guilty of a misdemeanor and upon conviction thereof shall,
3 for each offense, be fined not less than ten dollars nor more than
4 twenty-five dollars, or be confined in the county jail not to ex-
5 ceed thirty days, or both, at the discretion of the court. Jus-
6 tices of the peace shall have concurrent jurisdiction with the
7 circuit and criminal courts of offenses under this act committed
8 in their respective counties.

House Bill No. 279

(By MR. STROTHER)

[Introduced January 21, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 279

A BILL to amend and re-enact section seven of chapter five of
Barnes' code of West Virginia, one thousand nine hundred and
eighteen.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter five of Barnes' code of West Vir-
ginia, of one thousand nine hundred and eighteen, be amended and
re-enacted so as to read as follows:

Section 7. Any person who shall by force, menace, fraud,
2 intimidation, or in any other manner, prevent or attempt to pre-
3 vent any officer whose duty it is by law to assist in holding an
4 election, or in counting the votes cast thereat, and certifying
5 and returning the result thereof, from discharging his duties
6 according to law; or who shall by violence, threatening gestures,
7 speeches, force, menace, intimidation, or in any other manner,
8 prevent or attempt to prevent an election being held; or who
9 shall in any manner obstruct or attempt to obstruct the holding
10 of an election, or who shall by any manner of force, fraud, men-
11 ace or intimidation, prevent or attempt to prevent any voter
12 from attending any election, or from freely exercising his right

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13 of suffrage at any election at which he is entitled to vote, shall
14 be guilty of a felony, and upon conviction thereof, shall be fined
15 not less than five hundred dollars, nor more than five thousand
16 dollars, and be imprisoned in the state penitentiary for not
17 less than one, nor more than five years for every such offense;
18 and any corporation, firm or association, which shall, by its
19 officers, agents, employees or otherwise, prevent or attempt to
20 prevent any voter in its employ from attending any election,
21 or from freely exercising his right of suffrage at any election
22 at which he is entitled to vote, by any threat direct or indirect,
23 express or implied, to discharge, or deprive such voter from his
24 employment, or shall discharge or deprive such voter from its
25 employment because of any vote he may cast, or refuse to cast,
26 at any election at which he is entitled to vote, shall be guilty
27 of a misdemeanor, and shall upon conviction be fined not less
28 than five thousand dollars, nor more than twenty thousand dol-
29 lars for every such offense, and any officer, agent, servant or
30 employee of any such corporation, firm or association, who shall
31 violate any of the provisions of this section, shall be guilty of
32 a felony, and upon conviction thereof, shall be punished by
33 imprisonment in the penitentiary of this state, not less than one
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34 nor more than five years, and fined not less than five hundred,
35 nor more than five thousand dollars, for every such offense.
36 All acts or parts of acts inconsistent with this act are hereby
37 repealed.

House Bill No. 319

(BY MR. RAMSEY)

[Introduced January 22, 1921; referred to the Committee on Immigration and Agriculture.]

House Bill No. 319

A BILL to amend and re-enact section three of chapter sixty of the code, as amended by chapter fifty-nine of the acts of the legislature of West Virginia of the regular session of one thousand nine hundred and nineteen.

Be it enacted by the Legislature of West Virginia:

That section three of chapter sixty of the code, as amended by chapter fifty-nine of the acts of the legislature of the regular session of the year one thousand nine hundred and nineteen, be amended and re-enacted so as to read as follows:

Section 3. If any horse, mule, ass, jennet, or cattle, sheep, hogs, or goats shall enter into any grounds enclosed by a lawful fence, the owner or manager of such animal shall be liable to the owner of such grounds for any damage he may sustain thereby. It shall be unlawful for any such animal to run at large on any public road or highway or railroad right of way in this state and should such stock while running at large destroy or injure the property of another, the owner shall be guilty of a misdemeanor and fined not less than five dollars and not more than ten dollars, and shall pay to the party whose property shall have

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been injured or destroyed, the amount of damages sustained by him by reason of such destruction or injury. And the party so injured, may, if he find such stock on his premises, retain them, or a sufficient number thereof, until said damages and costs of keeping be paid.

But this act shall not take effect or be of force in any of the following named counties, to-wit: Nicholas, until the same be adopted by a vote of such county in manner prescribed in sections 3-a-3 and 3-a-4 of said chapter sixty of the code.

All acts or parts of acts inconsistent herewith are hereby repealed.

House Bill No. 237

(By MR. CAPEHART.)

[Introduced January 20, 1921; referred to the Committee on the Judiciary.]

House Bill No. 237

A BILL to prevent persons under twenty-one years of age from loitering around pool and billiard rooms and from playing pool and billiards therein.

Be it enacted by the Legislature of West Virginia:

Section 1. If any person under the age of twenty-one years
2 shall loiter around any place or room where pool or billiards are
3 played, or shall play pool or billiards therein, he shall be guilty
4 of a misdemeanor, and upon conviction thereof, shall be punished
5 by a fine of not less than ten nor more than one hundred dol-
6 lars, and if any owner, manager or employee of any such pool or
7 billiard room, shall permit any person under the age of twenty-
8 one years to loiter in or about such pool or billiard room, or to
9 play pool or billiards therein, he shall be guilty of a misdemeanor,
10 and upon conviction thereof, shall be fined not less than fifty
11 nor more than two hundred dollars, and in the discretion of the
12 court, confined in the county jail, not less than ten nor more than
13 sixty days, and upon the conviction of the same person for the
14 second offense, the license issued by the county court permitting
4 [H. B. N. 237
15 the owner to operate such pool or billiard room, shall be revoked
16 by the court, in which such person is so convicted.

ENGROSSED

WHEELING CHARTER.

House Bill No. 128

(By MR. OTTO.)

A BILL to amend and re-enact sections six, nine, twenty-three, fifty,
fifty-nine, seventy-five, seventy-seven, eighty-four and ninety-eight
of the part entitled "Greater Wheeling Charter" of an act of the

legislature of West Virginia, passed on the twentieth day of February, one thousand nine hundred and fifteen, entitled "An act to amend, revise and consolidate into one act an act of the legislature of West Virginia, passed February eleventh, one thousand nine hundred and seven, entitled: 'An act to amend, revise and consolidate into one act an act of the general assembly of Virginia, passed March eleventh, one thousand eight hundred and thirty-six, entitled: "An act to incorporate the city of Wheeling, in Ohio county, and all subsequent acts, both of the general assembly of Virginia and of the legislature of West Virginia, which form a part of the charter of the city of Wheeling;" chapter eleven of the acts of said legislature of West Virginia of one thousand nine

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hundred and nine; chapter two of the acts of said legislature of one thousand nine hundred and eight, extra session; and chapter ninety-one of the acts of said legislature at the regular session in the year one thousand nine hundred and thirteen; and all other acts of the said legislature, passed since the passage of said act of February eleventh, one thousand nine hundred and seven, and which form a part of the charter of the city of Wheeling;" and providing that the charter of said city shall be one of two forms of charters in this act set forth, according to the decision of the voters of said city at the general election to be held on the fourth Thursday in May, one thousand nine hundred and fifteen."

Be it enacted by the Legislature of West Virginia:

I. That section six of that part entitled "Greater Wheeling Charter," of chapter twenty-one of the acts of the legislature of West Virginia, of one thousand nine hundred and fifteen, (Municipal Charters) approved by the majority of the voters of the city of Wheeling at an election held on the fourth Thursday of May, one thousand nine hundred and fifteen as amended and re-enacted by chapter one hundred and seventeen of the acts of the legislature of West Virginia, (Municipal Charters) be amended and re-enacted so as to read as follows:

Section 6. Said city shall have a city council of not less than
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3

2 eleven members. All councilmen shall take office on the first day
3 of July, following their election, and shall serve for a term of two
4 years and until their successors are elected and have qualified,
5 unless sooner removed from office as hereinafter provided. They
6 shall be residents of the city and qualified voters therein. No one

7 elected a member of such city council shall be eligible to hold office
8 as such member, who shall be interested directly or indirectly in
9 the profits or emoluments of any contract, job, work or service for
10 the city, or in any sale to it of any property, real or personal; or
11 be, directly or indirectly, a holder or owner of any bond or stock
12 of any public utility corporation enjoying a franchise, privilege
13 or easement in or from such city; or be an officer, agent, trustee,
14 servant or employee or such a corporation. If any such person
15 shall serve or attempt or continue to serve as a member of such
16 city council who is not eligible for such membership, he shall be
17 guilty of a felony, and upon conviction thereof, be confined in the
18 penitentiary of this state not less than one nor more than five
19 years. The member of council nominated and elected from the
20 city at large shall be chairman or presiding officer of council, who
21 shall be known officially as mayor of the city, and recognized as
22 such for ceremonial purposes, and for the purpose of being served
4 [H. B. No. 128
23 with civil processes against the city, and for the performance of all
24 duties imposed upon him by this charter.

II. That section nine of the same act be amended and re-enacted
so as to read as follows:

Sec. 9. Councilmen shall be paid ten dollars each for every
2 regular meeting they attend, and the mayor shall be paid fifteen
3 dollars for like attendance, but no compensation shall be allowed
4 for special meetings, nor for any committee meeting of the council.
5 No extra compensation shall be granted or allowed to any mem-
6 ber of council, agent or servant of the city, or contractor therewith
7 after the services shall have been rendered or the contract made;
8 nor shall any payment be made of any claim or part thereof,
9 created against the city, under any agreement or contract made
10 without express authority of law; and all such unauthorized
11 agreements shall be null and void. Nor shall the salary or com-
12 pensation of any member of council be increased or diminished
13 during his term of office. No member of the council shall receive
14 any additional emolument, allowance or perquisite on any account,
15 save the compensation hereinbefore in this section provided.

III. That section twenty-three of the same act be amended and
re-enacted so as to read as follows:

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Sec. 23. "The council of the city of Wheeling shall have the

2 power to enact and enforce ordinances and regulations limiting the
3 speed of vehicles upon its streets, alleys and other public thorough-
4 fares within its limits, and likewise limiting the size and weight
5 of vehicles, and the weight per inch width of tire, upon such streets,
6 alleys, and other public thoroughfares within its limits as are not
7 designated by the state road commission as connecting parts of the
8 road system. The council of the city of Wheeling shall also have
9 power to regulate or forbid the parking of vehicles upon any desig-
10 nated streets, alleys and other public thoroughfares within its
11 limits, and to regulate the progress of traffic at street intersec-
12 tions."

IV. That section fifty of the same act be amended and re-enacted so as to read as follows:

Sec. 50. The council may cause to be taken or damaged for
2 the use of the city, for streets, alleys, markets, bridges, public
3 squares, parks, playgrounds and other municipal purposes, in-
4 cluding occupation by sewer, water pipes, gas pipes, heating pipes,
5 compressed air pipes and electric or other subways, any private
6 property within the city, (and where such use is to secure or im-
7 prove the water supply, or for park, playground, sanitary or ceme-

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8 tery purposes, outside the limits of the city), but no such property
9 shall be taken or damaged without just compensation. The com-
10 pensation, if it cannot be determined by agreement with the owner
11 of the property so taken or damaged, shall be ascertained in such
12 manner as is, or may be, prescribed by general law for the condem-
13 nation of land for public purposes. In addition to all other levies
14 provided by law the council of the city of Wheeling shall have the
15 right to levy annually one cent on each one hundred dollars of the
16 assessed valuation of the property within the limits of the city
17 according to the last assessment thereof for state and county pur-
18 poses, for the purpose of obtaining and maintaining playgrounds.

V. That section fifty-nine of the same act be amended and re-enacted so as to read as follows:

Sec. 59. The judge of the police court shall have jurisdiction
2 over all offenses against, or violation of, the ordinances of said
3 city, and full authority to punish in any manner lawfully pre-
4 scribed by such ordinances, the offenders against or violators of, the
5 same; *provided, however*, that no jury shall be allowed in any
6 trial in said court for the violation of any ordinance of said city.

7 The said judge of the police court shall have the same criminal
8 and civil jurisdiction and powers within the county of Ohio as
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9 is provided by law for justices of the peace elected in said county.

VI. That section seventy-five of the same act be amended and re-enacted so as to read as follows:

Sec. 75. The county assessor or other officer assessing property
2 in Ohio county, for taxation for state and county purposes, shall
3 furnish to the council of the city of Wheeling, a transcript of the
4 assessment of real and personal property within said city liable to
5 taxation by the state, on or before the first day of August of each
6 year, and he shall receive such compensation therefor as may be
7 fixed by said council.

VIII. That section eighty-four of the same act as amended and re-enacted by chapter eleven of the acts of the legislature of West Virginia of one thousand nine hundred and nineteen (Municipal Charters), be amended and re-enacted so as to read as follows:

Sec. 84. Said city of Wheeling is hereby authorized to issue
2 and sell its bonds. *Provided*, that the said city shall not by such
3 issue and sale of bonds cause the aggregate of its debts of every
4 kind whatsoever to exceed five per centum of the valuation of the
5 taxable property therein, which value shall be ascertained by the
6 last assessment for state and county taxes previous to the issue of
7 said bonds, nor shall said city make such issue and sale without at

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8 the same time providing for the collection of a direct annual tax
9 of an amount sufficient to pay the annual interest of such debt and
10 the principal thereof within and not exceeding thirty-four years.

11 No bonds shall be issued by said city unless all questions con-
12 nected with the same shall have been first submitted to the quali-
13 fied voters of said city and have received three-fifths of all the
14 votes cast for and against the same.

15 When the council shall deem it expedient to issue bonds, an
16 ordinance specifying the purpose and amount for which such
17 bonds are to be issued shall be adopted by them at a regular
18 meeting and it shall then be the duty of the mayor of the city to
19 issue a proclamation reciting said ordinance and appointing a day
20 at which an election shall be held by the qualified voters of the
21 city to decide whether they will ratify or reject said ordinance.
22 Any bond ordinance may be voted on at the time of holding any

23 general municipal election or a special election may be held for
24 the purpose of submitting said ordinance to a vote of the people.
25 If a bond ordinance is submitted to a vote at the time of a gen-
26 eral municipal election, separate ballots shall be provided therefor.
27 Such proclamation shall be published in two newspapers of oppo-
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28 site politics published in the city, once a week for two successive
29 weeks previous to the day of election.

30 Such election shall be conducted in all things according to the
31 laws governing elections in force at the time said election is being
32 held and according to the provisions of the charter of the city.
33 All persons qualified to vote at other municipal elections in the
34 city shall vote at such elections as are herein mentioned.

35 The person voting for the ratification of any such ordinance shall
36 have written or printed on his ballot "for ratification" and the
37 person voting against ratification shall have written or printed on
38 his ballot "against ratification."

39 More than one ordinance may be submitted at any election, but
40 each ordinance shall be separately voted upon; any ordinance may
41 specify more than one purpose for which said bonds are to be
42 issued, *provided, however*, that the amount to be appropriated for
43 each purpose is also specified therein. The proclamation issued by
44 the mayor, as hereinbefore provided, shall specify the aggregate
45 amount of indebtedness, outstanding and authorized, of the city
46 existing at the date of the proclamation.

47 Bonds issued by the city shall be of the denomination of one
48 hundred dollars or multiples thereof, not exceeding one thousand
10 [H. B. No. 128

49 dollars. They shall be payable not less than one nor more than
50 thirty-four years after date. They shall bear not more than six
51 per cent interest and the interest shall be payable annually or
52 semi-annually. No debt shall be created by the city as a bonded
53 debt except when issued under the provisions of this charter.

54 It shall be unlawful for the officers of the city to privately
55 issue or sell directly or indirectly any bond or bonds to be used in
56 payment for work or materials to be furnished, but all such bonds
57 shall be publicly sold to the highest bidder in writing to be ap-
58 proved by the officers conducting the sale, for cash or its equivalent
59 in bonds previously issued by the city, and the money arising there-
60 from shall be used for the purpose specified in the ordinance pro-

61 viding for the issuing of same; before any sale of such bonds, said
62 sale shall be advertised in some newspapers, not exceeding four, in
63 or out of said city, once a week for four weeks previous to said sale.

64 The treasurer of the city of Wheeling and his sureties shall be
65 liable for the sinking fund and the amount levied for may be
66 levied for a sinking fund and to pay interest on the bonded debt,
67 and it shall be applied to the purposes for which it was levied or
68 for investment in United States bonds, or bonds of the city, as the
69 council may direct, to be used for the payment of principal and
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70 interest of any bonded debt of the city.

71 Bonds of the city shall not be sold at less than their par value.
72 The council shall provide in its ordinance that bonds of the city
73 be signed by the mayor and city clerk and sealed with the seal of
74 the city.

75 Should any of the fund derived from the issuance and sale of
76 bonds of the city be diverted by the council or any officer or
77 officers of the city from the purpose for which said bonds were
78 issued and sold, such councilman or city officer using same or
79 consenting to or aiding in the use thereof for such other purpose.
80 shall be guilty of a misdemeanor and be punished by a fine of not
81 less than one hundred dollars nor more than five hundred dollars,
82 or by imprisonment for not less than thirty days nor more than
83 one year, or both fine and imprisonment.

84 The city may issue and sell its bonds for any of the purposes
85 authorized in sections twenty-nine, forty-eight, fifty and fifty-two
86 of chapter twenty-one (Municipal Charters) of the acts of one
87 thousand nine hundred and fifteen, passed by the legislature of
88 West Virginia, on February thirteenth, one thousand nine hun-
89 dred and fifteen. After the council shall have passed an ordinanre
90 providing for the submission of a bond issue to the voters of the

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91 city, the mayor, with the consent and approval of council, shall ap-
92 point a committee consisting of not less than five residents and citi-
94 zens of the city of Wheeling, which committee shall act in an ad-
95 visory capacity, with the city council in all matters relating to the
96 issuance and sale of such bonds, and in the awarding of contracts
97 and expenditures of the funds derived from a sale of such bonds.
98 The names of the members of such committee shall be published in

99 the proclamation issued by the mayor prior to the holding of the
100 election on any such bond issue.

IX. That section ninety-eight of the same act be amended and re-enacted so as to read as follows:

Sec. 98. The city council is empowered to appoint a civil
2 service commission for the purpose of examining applicants for
3 positions in the police, fire, water and health departments. Said
4 commission shall consist of three citizens, not all of whom shall
5 be of one political party. Any vacancies occurring in the com-
6 mission shall be filled by council. For the purpose of conducting
7 tests in the departments specified they shall conduct practical
8 examinations annually or oftener, fixing grades and classifications
9 as they may determine, and a list of those successfully passing
10 the examinations prescribed shall be furnished the city manager.

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11 Such list shall be known as the eligible list, and, unless for good
12 cause shown, selections must be made from among the three appli-
13 cants rated highest for the appointments necessary to be made.
14 Said list and all examination papers shall be kept on file in the
15 office of the city clerk and available to the public at all times;
16 *provided*, that appointees in the departments under civil service
17 may be subjected to examinations from time to time in the interest
18 of efficiency, and that the passing of the required examinations
19 prior to entering the city's employ shall not constitute a life tenure
20 in office. No member of the civil service commission during his
21 incumbency shall be holder of any state, county, or municipal
22 office.

House Bill No. 328

(BY MR. JOHNSTON)

[Introduced January 24, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 328

A BILL to amend and re-enact section thirteen of chapter fifty-seven,
of the acts of the legislature of one thousand nine hundred and
nineteen, relating to certain allowances to sheriffs.

Be it enacted by the Legislature of West Virginia:

That section thirteen of chapter fifty-seven, of the acts of the legislature of one thousand nine hundred nineteen, regular session, be amended and re-enacted so as to read as follows:

Section 13. The county court, or tribunal in lieu thereof, of 2 every county shall, in addition to the compensation and salary 3 herein provided, allow to the sheriff for keeping and feeding prisoners, as provided by law, the sum of sixty cents per day; *provided,* 4 *however,* that in any county where the prisoners do not exceed five 5 in number, the county court may allow a sum not to exceed seventy-five cents per day; and an additional ten cents per day shall 6 be allowed to the sheriff for each day a person is actually worked 7 on the public road under sentence of any court having jurisdiction; 8 and said court shall allow the actual and necessary expenses incurred or expended in sitting for the collection of taxes, in arresting, pursuing or transporting persons accused of or convicted of

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13 crimes and offenses, and in conveying or transferring to or from 14 any state institutions to which any person may be committed from 15 the county where, by law, the sheriff is authorized to convey or 16 transfer such person, and said court shall allow the actual and 17 necessary expenses incurred or expended in serving summonses, 18 notices and other official papers in connection with the sheriff's 19 office; *provided, however,* that the amount of such expenses so allowed shall not in the aggregate exceed the total fees earned by the 20 sheriff for any year for serving such papers. 21

22 Whenever a sheriff gives bond with a fidelity and indemnity 23 company as surety, the county court shall pay the premium thereon out of the county treasury. Every sheriff shall file, under oath, 24 25 monthly, a full and accurate account of all his actual and necessary expenses mentioned in this section before the same shall be 26 27 allowed by the county court.

28 That sheriffs and all other officers, whether state, county, district or municipal, who shall collect or receive, or whose official 29 30 duty it is or shall be to collect, receive or pay out any money belonging to or which is or shall be for the use of the state or any 31 32 county, district or municipal corporation, shall make an annual H. B. No. 328] 5

33 account and settlement therefor on or before the thirtieth day of 34 June.

35 In making the settlement provided for in this section, the sher-
36 iffs shall be allowed three months and until the first day of April
37 following the expiration of their terms, in which to make their set-
38 tlements as of December thirty-first.

House Bill No. 21

(BY MR. SARVER)

[Introduced January 17, 1921; referred to the Committee on the Judiciary.]

House Bill No. 43

(BY MR. HOWARD)

[Introduced January 17, 1921; referred to the Committee on the Judiciary.]

House Bill No. 21

A BILL to amend and re-enact sections twenty-two and twenty-three of chapter one hundred and sixteen, Barnes' code of West Virginia, of one thousand nine hundred and sixteen.

Be it enacted by the Legislature of West Virginia:

That section twenty-two and section twenty-three be amended and re-enacted so as to read as follows:

Section 22. Every person who shall serve upon a grand jury shall be entitled to receive for such services not less than three dollars and not more than five dollars for each day he may serve, and in addition thereto the same mileage as allowed to witnesses, to be paid out of the county treasury. But he shall not be paid for more than four days services at any one term of the court, except in the counties of Kanawha, McDowell, Fayette, Cabell, Marshall, Wetzel, Tyler, Marion, Wood, Ohio and Mingo, where such grand jurors shall not be paid for more than ten days' service for any one term of court.

Sec. 23. Any person summoned as aforesaid, by virtue of a *venire facias* or otherwise and actually attending upon the court, or

3 attending at the court house, at the time summoned, whether he
4 [H. B. No. 21
4 be called to serve on a jury or not, shall for each day he so
5 attends be entitled to receive not less than three dollars and
6 not more than five dollars and the same mileage allowed to
7 witnesses, to be paid out of the county treasury. The county
8 court shall fix the compensation as provided for above, in the
9 same manner and at the same time that the annual allowances
10 are made to county officers. *Provided*, that for any day that
11 any person shall be sworn to serve on a case of felony he shall
12 for that day, and any other days he may serve on such case be
13 paid five dollars out of the state treasury. That for each day he
14 shall not actually attend the court house he shall receive noth-
15 ing, and that mileage shall be allowed but once during the term.
16 There shall be taxed in the costs against any person against whom
17 a judgment on the verdict of a jury may be rendered in a case
18 of misdemeanor, and against any person whom judgment on the
19 verdict of a jury may be rendered in a civil action, and against
20 any person on whose motion the verdict of the jury is set aside
21 and a new trial granted, eight dollars for jury costs, which
22 when collected from any party, shall be paid into the county treas-
23 ury. All moneys so received by the clerk shall be forthwith paid
24 by him to the sheriff, and the clerk and his sureties shall be
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25 liable therefor on his official bond, as for other moneys coming into
26 his hands by virtue of his office. The clerk of the circuit court of
27 each county shall annually certify to the county court a list
28 of all moneys so paid to him and by him paid to the sheriff
29 and in addition thereto a correct list of all the cases in which
30 jury fees have been taxed, and are, at the time, properly due and
31 payable into the county treasury, and the sheriff of the county
32 shall be held to account, in his annual settlement for all such
33 moneys collected by him.

34 All acts and parts of acts in conflict herewith are hereby re-
35 pealed.

House Bill No. 181

(BY MR. GODFREY.)

[Introduced January 19, 1921; referred to the Committee on Education.]

House Bill No. 181

A BILL providing for fire drills in all public, private or parochial schools, high schools, colleges or normal schools in the state.

Be it enacted by the Legislature of West Virginia:

Section 1. That the teacher, principal, superintendent, or
2 other person having direct charge of and the supervision over
3 any public, private, parochial school, high school, college or normal
4 school in this state shall, at least once each month without pre-
5 vious warning, cause all persons in attendance at any such insti-
6 tution to be drilled in proper methods of orderly and rapid de-
7 parture from each room or building belonging to such institu-
8 tion as if in case of fire.

Sec. 2. Any person having direct charge of or supervision of
2 any institution described in section one of this act who shall fail
3 to comply with the provisions of same shall be deemed guilty
4 of a misdemeanor and upon conviction thereof shall be punished
5 by a fine of not more than twenty dollars for each offense.

House Bill No. 203

(BY MR. WEISS, by request.)

[Introduced January 20, 1921; referred to the Committee on the Judiciary.]

House Bill No. 203

A BILL to relieve William M. Clemans from certain obligations incurred honestly and in good faith by the said William M. Clemans, as sheriff of Ohio county from January first, one thousand

3 attending at the court house, at the time summoned, whether he
 4 [H. B. No. 21
 4 be called to serve on a jury or not, shall for each day he s
 5 attends be entitled to receive not less than three dollars ar
 6 not more than five dollars and the same mileage allowed
 7 witnesses, to be paid out of the county treasury. The cou
 8 court shall fix the compensation as provided for above, in
 9 same manner and at the same time that the annual allow
 10 are made to county officers. *Provided*, that for any day
 11 any person shall be sworn to serve on a case of felony b
 12 for that day, and any other days he may serve on such
 13 paid five dollars out of the state treasury. That for each
 14 shall not actually attend the court house he shall recee
 15 ing, and that mileage shall be allowed but once during
 16 There shall be taxed in the costs against any person ag
 17 a judgment on the verdict of a jury may be rendere
 18 of misdemeanor, and against any person whom judg
 19 verdict of a jury may be rendered in a civil action
 20 any person on whose motion the verdict of the jur
 21 and a new trial granted, eight dollars for jur
 22 when collected from any party, shall be paid into th
 23 ury. All moneys so received by the clerk shall be
 24 by him to the sheriff, and the clerk and his
 H. B. No. 21] 5
 25 liable therefor on his official bond, as for other m
 26 his hands by virtue of his office. The clerk of
 27 each county shall annually certify to the c
 28 of all moneys so paid to him and by him
 29 and in addition thereto a correct list of al
 30 jury fees have been taxed, and are, at the ti
 31 payable into the county treasury, and the
 32 shall be held to account, in his annual a
 33 moneys collected by him.
 34 All acts and parts of acts in conflict
 35 pealed.

office having
 deposited in bank

to him and when a con-
due said sheriff,
agreement
said

HOUSE BILLS

House Bill No. 181

(By MR. GODFREY.)

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Introduced January 19, 1921; referred to the Committee on Education

House Bill No. 181

ing for fire drills in all public, private or parochial
schools, colleges or normal schools in the state.
Legislature of West Virginia:
that the teacher, principal, superintendent, or
ing direct charge of and the supervision over
parochial school, high school, college or normal
shall, at least once each month without pro
all persons in attendance at any such institu
proper methods of orderly and rapid de
or building belonging to such institu
ing direct charge of or supervision
section one of this act who shall
is of same shall be deemed
violation thereof shall be liable
dollars for each offense.

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No. 203
for Ohio
rs of Ohio
nty, brought
l sheriff upon
d the foregoing
court upon said
iff; and
l conscience required
the circumstances under
ot be charged against the

West Virginia:

ans, as sheriff of Ohio county, for
ning January first, one thousand
ending on December thirty-first, one
and twelve, be allowed and given credit
the board of commissioners of Ohio county
Clemans as sheriff of said county, lately de-
circuit court of Ohio county, West Virginia,
thousand six hundred and seventy-four dollars, con-
made up of the following items:

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nine hundred and nine to December thirty-first, one thousand nine hundred and twelve.

WHEREAS William M. Clemans was duly elected and qualified and thereafter discharged the duties of sheriff of Ohio county from January first, one thousand nine hundred and nine to and including the thirty-first day of December, one thousand nine hundred and twelve; and

WHEREAS, by reason of the failure of the assessor of the county of Ohio during the said period of time to make the proper extensions upon the land and personal property books of the county of Ohio, the said sheriff was compelled to and did actually expend during the said term the sum of sixteen hundred dollars in making such extensions; and

WHEREAS, when the said sheriff came into his said office the board of education of Ritchie district, Ohio county had been carrying with the predecessor of the said sheriff an indebtedness of

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the said sheriff authorized by law and said sheriff during his said term believing himself liable so to do took over said indebtedness and carried the same and paid interest thereon in the principal amount of thirty-three hundred dollars, the interest paid thereon amounting to four hundred and fifty-five dollars and said sheriff has never been reimbursed for said interest so paid; and

WHEREAS, during his said incumbency in office the said sheriff was advised by the prosecuting attorney of Ohio county, the attorney general of West Virginia and the state tax commissioner that it was his duty as such sheriff to collect the school taxes of the independent school district of the city of Wheeling, and the said sheriff, acting on such advice, attempted to make said collections and was enjoined by the said city of Wheeling from so doing which injunction proceeding was tried before the circuit court for Ohio county and upon appeal was finally decided against said sheriff by the supreme court of appeals of West Virginia and in the matter of making out the original tax bills, making the proper refunds of the said taxes, making out new tax bills and the payment of counsel fees and other litigation expenses, was compelled to and did expend the sum of four thousand and ninety dollars; and

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WHEREAS the said sheriff during said term in office having been advised that the interest upon tax moneys deposited in bank

38 to the credit of the said sheriff belonged to him and when a con-
39 troversy arose concerning the fixing of jail fees due said sheriff,
40 said controversy was compromised and adjusted by an agreement
41 between the board of commissioners of Ohio county and the said
42 sheriff by which the said sheriff was led to believe he would re-
43 ceive over and above what the jail fees had been theretofore fixed
44 at, the sum of two thousand seven hundred and forty dollars,
45 and upon final settlement by said sheriff he was compelled to ac-
46 count for said last mentioned sum of money, and

47 WHEREAS from time immemorial in the office of sheriff of
48 Ohio county the various and respective sheriffs had always claimed
49 in their annual settlement and had regularly been allowed by the
50 board of commissioners of Ohio county, a percentage or commis-
51 sion of one percent upon miscellaneous collections and the said
52 sheriff following the usual custom claimed and was allowed the sum
53 of seventeen hundred and eighty-nine dollars, being one percent
54 on miscellaneous collections and upon a later settlement and ac-
55 count the said sheriff was compelled to account for said last men-
56 tioned sum, and

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57 WHEREAS in a proceeding before the circuit court for Ohio
58 county, West Virginia entitled the board of commissioners of Ohio
59 county versus William M. Clemans, sheriff of Ohio county, brought
60 to settle and determine the amount of liability of said sheriff upon
61 the said sheriff pleading and asking to be allowed the foregoing
62 items as offsets, the decision of the said circuit court upon said
63 pleas and requests was adverse to the said sheriff; and

64 WHEREAS, honesty, good faith and good conscience required
65 that said disbursements and claims under the circumstances under
66 which they respectively arose should not be charged against the
67 said sheriff, now, therefore,

68 *Be it enacted by the Legislature of West Virginia:*

69 That the said William M. Clemans, as sheriff of Ohio county, for
70 the period of four years, beginning January first, one thousand
71 nine hundred and nine and ending on December thirty-first, one
72 thousand nine hundred and twelve, be allowed and given credit
73 in the litigation between the board of commissioners of Ohio county
74 and said William M. Clemans as sheriff of said county, lately de-
75 pending before the circuit court of Ohio county, West Virginia,
76 the sum of ten thousand six hundred and seventy-four dollars, con-
77 stituted and made up of the following items:

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78	Extending land and personal property books.....	\$ 1,600
79	Interest advanced for and paid upon Ritchie district	
80	(country) school orders	455
81	Money expended in the effort to collect school taxes	
82	of the independent school district of city of	
83	Wheeling	4,090
84	Moneys arising from compromise of jail account.....	2,740
85	One percent upon miscellaneous collections	1,789
86		
87	Total	\$10,674

House Bill No. 406

(By MR. DAVIS, of Monongalia.)

[Introduced January 25, 1921; referred to the Committee on the Judiciary.]

Hnuse Bill No. 406

A BILL prohibiting the marriage of any male person infected with syphilis, gonococcus infection, or chancroid in an infectious or transmittable stage; providing for appointment of county health examiners; requiring the male applicant for marriage license to submit certificate of county health examiner showing applicant to be not infected with said diseases; requiring county health examiner to make examination of all male applicants for marriage license; providing for state laboratory examination of all slides and specimens; providing for a certificate from the county health examiner to male applicants; requiring records to be kept from public inspection; giving right of appeal to applicant; declaring void marriages contracted by residents in this state who have had their marriages solemnized in another state to evade the provisions of this act; and providing a penalty.

Be it enacted by the Legislature of West Virginia:

Section 1. It shall be unlawful for any person having
 2 syphilis, gonococcus infection or chancroid in an infectious stage,
 3 or having syphilis in a stage of said disease whereby the same could

4 be transmitted to the issue of said infected person, to contract
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5 marriage or enter the marriage relationship within this state.

Sec. 2. The state health council is hereby authorized and em-
2 powered to appoint in each county an official who shall be known
3 as the county health examiner, whose duties and compensation
4 shall be as in this act hereinafter defined and specified. No per-
5 son shall be eligible to appointment as such county health examiner
6 unless he or she shall be a licensed physician authorized to prac-
7 tice medicine in the state of West Virginia. Whenever possible,
8 the state health council shall select from among the physicians
9 otherwise qualified for appointment as county health examiner,
10 such physician who has had special experience or training in the
11 treatment and study of genito-urinary and blood diseases. The
12 county examiner shall receive as compensation for his services not
13 to exceed the sum of five dollars for each examination made as in
14 this act provided, one dollar of which shall be paid to the state
15 laboratory as compensation for laboratory tests for slides and
16 blood specimens. When otherwise qualified the county or dis-
17 trict health officer of any county or district shall be eligible for
18 appointment as county health examiner. *Provided*, that if any
19 full time district or county health officer who is required to give
20 his entire time and services is appointed as county health examiner,
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21 that he shall not be entitled to receive from the male applicant
22 any fee for making the examinations as required by this act, except
23 one dollar which is paid to the state laboratory.

Sec. 3. It shall be unlawful for any county clerk, clerk of
2 court (or other official authorized by law to issue marriage
3 license) to issue a marriage license to any person unless the ap-
4 plicant therefor be accompanied by a certificate from the county
5 health examiner of the county wherein application for marriage
6 license is made, that a careful and thorough clinical and labora-
7 tory examination of the male applicant fails to disclose evidence
8 of the presence of syphilis, gonococcus infection or chancroid in
9 the infectious stage of any of said diseases, or a stage of syphilis
10 whereby said disease could be transmitted to the issue of said ap-
11 plicant.

Sec. 4. It shall be the duty of the county health examiner to
2 make a thorough clinical examination of each male applicant for
3 marriage license, and he shall in addition thereto forward to the

4 state laboratory for examination, a blood specimen obtained from
 5 each applicant and also slides prepared from the secretions of the
 6 uretha and prostate gland of such applicant. Such slides and blood
 7 specimen shall be obtained and transmitted in such manner as

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8 shall be prescribed by the state health council and the postal laws
 9 if transmitted by mail. The results of such examination shall be
 10 reported on uniform blanks to the officer from whom such speci-
 11 mens were received. It is hereby made the duty, and power is
 12 given, to the state health council, to prescribe rules and regula-
 13 tions and procedure for carrying out the provisions of this sec-
 14 tion. Any applicant for marriage license shall be entitled to
 15 have a physician of his own selection present during the examina-
 16 tion of such applicant by the county health examiner as herein
 17 provided.

Sec. 5. If the clinical examination and the laboratory findings
 2 made as herein provided, fail to show evidence of the presence in
 3 such applicant of syphilis, gonococcus infection or chancroid in the
 4 infectious stage of any of said diseases, and of a stage of syphilis
 5 whereby said defense could be transmitted to the issue of said ap-
 6 plicant, the county health examiner shall give to such applicant
 7 a certificate which shall be in the following form: ,

8 I,..... do hereby certify that
 9 I am the duly qualified, appointed and acting county health ex-
 10 aminer for the county of.....; that on the
 11day of, 19...., I made a
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12 thorough clinical examination of and forwarded to the state labora-
 13 tory at a blood specimen and slides
 14 containing urethral smears obtained from
 14 who is an applicant for marriage license; that from my exami-
 15 nation of saidand from the labora-
 16 tory findings of the state laboratory hereto attached. I do hereby
 17 certify that such examination failed to disclose evidence of the
 18 presence of syphilis, gonococcus infection or chancroid in the
 19 infectious stages of said diseases, or a stage of syphilis whereby
 20 said disease could be transmitted to the issue of said applicant.

.....
 County Health Examiner.

(Date)

Sec. 6. The county health examiner's certificate as prescribed by this act shall be presented to the officer authorized by law to issue marriage license not later than five days after the date of certification, and if not so presented it shall lapse. The records of the county health examiner and of the state laboratory pertaining to any duties imposed by the act shall not be open for public inspection, and it shall be the duty of the county health
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8 examiner and of officials in charge of the state laboratory to pre-
9 serve with secrecy all matters coming to their attention by virtue
10 of their official duties.

Sec. 7. Any applicant for marriage license feeling aggrieved at the action of the county health examiner in withholding from such applicant a certificate as provided in this act, shall have the right of appeal from the decision of the county health examiner to the circuit court in the county wherein such applicant resides.

Sec. 8. It shall be unlawful for residents of this state who, for the purpose of evading the provisions of this act, and who intend to return to this state, to go into the jurisdiction of another state or country and therein have their marriage solemnized. All marriages solemnized in violation of this section shall be deemed void in this state.

Sec. 9. Any person who shall violate any of the provisions of this act, or shall willfully or knowingly make any mis-statements or false certificate as to any facts required by the provisions of act, shall, upon conviction, be punished by a fine of not to exceed one thousand dollars or imprisonment not to exceed one year, or by both such fine and imprisonment.

House Bill No. 68

(BY MR. CULLEN.)

[Introduced January 17, 1921; referred to the Committee on the Judiciary.]

House Bill No. 68

A BILL to amend and re-enact section two hundred and nineteen of chapter fifty of Barnes' code of West Virginia.

Be it enacted by the Legislature of West Virginia:

That section two hundred and nineteen of chapter fifty, of Barnes' code of West Virginia, be amended and re-enacted to read as follows:

Section 219. A justice shall have jurisdiction of the following 2 offenses committed in his county, or on any river or creek adjoining thereto: 3

(1) In cases of assault and battery, unless the offense was 4 committed on a sheriff or other officer or justice, or riotously or 5 with intent to commit a felony, and no compromise with the 6 party injured shall affect or prevent the trial of such offense by the 7 justice. 8

(2) In cases of trespass to personal property, and if a defendant be convicted, either upon his own confession or upon a 10 trial by the justice, with or without a jury, for either of the 11 offenses hereinbefore mentioned, he shall be fined not less than 12 five dollars, nor more than fifty dollars. 13

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(3) In cases of the violation of section nineteen of chapter 14 one hundred and forty-nine of this code; and upon the conviction of the defendant for a violation of any of the provisions of 15 said section, he shall be fined not less than five nor more than 16 fifty dollars, and may, at the discretion of the justice or jury 17 trying the case, be imprisoned in the county jail not exceeding ten 18 days. 19

(4) In cases of adultery and fornication, and any other case 20 where the punishment is limited to a fine not exceeding ten dollars, or to imprisonment not more than ten days. But in cases 21 of conviction for adultery or fornication the defendant shall be 22 fined twenty dollars. 23

(5) In cases of petit larceny, and if the defendant be convicted of such offense, either upon his own confession or upon the 24 trial by the justice, with or without a jury, he shall be fined not 25 less than ten dollars nor more than thirty dollars, and may, at the 26 discretion of the justice or jury trying the case, be imprisoned in 27 the county jail not exceeding thirty days. And if the convict 28 be a male person, unless he shall pay said fine and the costs of the 29 prosecution, he may during the term of his imprisonment be 30 compelled to work on the public roads or streets at the rate of 31 H. B. No. 68] 5

one dollar per day until the said fine and the costs of the prosecution 32

tion are paid, and if necessary a ball and chain shall be attached to his person.

(6) In cases for the violation of sections nine and ten of chapter fifty-six of this code; and upon the conviction of the defendant for the violation of any of the provisions of said sections, he shall be punished as therein provided.

House Bill No. 356

A BILL to amend and re-enact section seven of chapter one-hundred and twenty of the code of West Virginia, as amended and re-enacted by chapter thirty-four of the acts of one thousand nine hundred and nine, and by chapter twenty-two of the acts of one thousand nine hundred and thirteen, and also by chapter one hundred and seven of the acts of one thousand nine hundred and seventeen.

Be it enacted by the Legislature of West Virginia:

Section 7. Any prosecuting attorney may, with the assent of the county court of his county, entered of record, appoint one practicing attorney to assist him in the discharge of his official duties for and during his term of office, and such assistant shall take the same oath of office and may perform the same duties as his principal; and he may be removed from office as such assistant at any time by his principal; and, further, he may be removed from office as such assistant by the circuit court of the county in which he is appointed, for any cause for which his principal might be so removed. The compensation of such assistant shall be paid by the principal from

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the income of the office; except in the counties of Cabell, Fayette, Kanawha, Marion, McDowell, Mercer, Mingo, Raleigh, Wood, Ohio, Logan, Wayne and Harrison; and in said counties the county court thereof shall allow annually to such assistant such compensation, to be paid out of the county treasury, as is deemed reasonable by the court in the counties of Fayette, Kanawha, Marion, Cabell, McDowell, Mercer, Mingo, Wood, Logan, Ohio and Harrison, not less than one thousand nor more than two thousand and dollars annually; and in the counties of Raleigh and Wayne not to exceed the sum of one thousand dollars annually, and in

22 the county court of Nicholas not to exceed the sum of nine hundred
23 dollars annually. *Provided, however,* that in each of the coun-
24 ties expressly named herein in lieu of such assistant to be
25 paid out of the county treasury, the prosecuting attorney may
26 employ a stenographer for his office at a salary not to exceed
27 nine hundred dollars per annum, to be paid out of the county
28 treasury. The prosecuting attorney and his assistant (if he
29 has one) shall manage and control all prosecutions for crimes
30 and misdemeanors tried in the circuit court, or in any other
31 court, having concurrent jurisdiction with the circuit court,
32 for the trial of crimes and misdemeanors, of any county, for
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33 which such prosecuting attorney was elected or appointed.

34 *Provided,* that in any case in which it would, in the opinion
35 of the court, be improper for the prosecuting attorney and his
36 assistant (if he has one) to act; or if the prosecuting attorney
37 and his assistant be unable to act, such court shall appoint some
38 competent practicing attorney to prosecute such case, and upon the
39 performance of the service for which he was appointed, said
40 court shall certify that fact, with its opinion of what would be
41 a reasonable allowance not to exceed seven dollars and fifty cents
42 per day, actually worked, to such attorney, for the service rendered
43 to the county court of the county, and such sum, or a different
44 sum, when allowed by the county court, shall be paid out of the
45 county treasury; *provided, further,* that nothing in this section
46 shall be construed to prohibit the employment by any person, or
47 competent attorneys to assist in the prosecution of any person
48 or corporation charged with crime.

49 All acts or parts of acts inconsistent herewith are hereby re-
50 pealed.

House Bill No. 123

(BY MR. McCORM.)

[Introduced January 19, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 123

A BILL to amend and re-enact section seventeen of chapter seventy-three of the acts of the legislature of one thousand nine hundred and fifteen, regular session, relating to divorces.

Be it enacted by the Legislature of West Virginia:

That section seventeen of the acts of the legislature of one thousand nine hundred and fifteen, regular session, relating to divorces, be amended and re-enacted as follows:

Section 17. The plaintiff shall, in every case, at least thirty
2 days before the first day of the term at which it is expected to
3 try the case before the court, give the defendant notice in writing
4 that a trial will be demanded, fixing the day in said notice when
5 said demand will be made. *Provided*, that if the defendant be a
6 non-resident, such notice will be sufficient if published for four
7 successive weeks in some newspaper published in the county where-
8 in such suit may be pending, said publication to be matured at
9 least ten days before the beginning of the term at which the case
10 is to be tried.

House Bill No. 261

(BY MR. DOWNS)

[Introduced January 21, 1921; referred to the Committee on Railroads.]

Senate Bill No. 154

(BY MR. HENSHAW)

[Introduced January 21, 1921; referred to the Committee on Railroads.]

House Bill No. 261

A BILL to provide for the elimination of grade crossings of railroads in incorporated cities, towns and villages of West Virginia, having a population of ten thousand or more.

Be it enacted by the Legislature of West Virginia:

Section 1. The city council or other governing body of all incorporated cities, towns and villages of West Virginia, having a

3 population of ten thousand or more, whether incorporated under
4 the general statute or by special statute, are hereby authorized to
5 require any railway or railroad company or companies owning
6 or operating any railway or railroad track or tracks, upon or
7 across any public street or streets of such city, town or village, to
8 erect, construct, complete and keep in repair, any viaduct or via-
9 ducts, underground or overhead crossing as may be deemed and de-
10 clared by such city council or other governing body, by ordinance
11 regularly passed, necessary for the safety and protection of the
12 public.

Sec. 2. The width, height, length and strength of an such via-
2 duct, underground or overhead crossing and approaches thereto,
3 the material therefor and the manner of construction thereof shall

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4 be as required by the city engineer and approved by such city
5 council or other governing body of such city, town or village.

Sec. 3. The expense of the construction and maintenance of
2 such viaduct, underground and overhead crossing, including the
3 damages to any person whose land is taken and the special dam-
4 ages which the owner of any land adjoining the public street shall
5 sustain by reason of any change in the grade of such highway,
6 shall be borne by the railway or railroad company or companies
7 whose tracks cross or run upon such public street. *Provided*, that
8 where the tracks of two or more railways or railroads are involved
9 in the same crossing the proportion of such viaduct, underground
10 or overhead crossing, and the approaches thereto, to be constructed,
11 or the cost to be borne, by each shall be determined by the city
12 council or other governing body of such city, town or village.

Sec. 4. It shall be the duty of any railway or railroad com-
2 pany or companies, upon being required, as herein provided to
3 erect, construct, reconstruct or repair, any viaduct, underground
4 or overhead crossing to proceed within the time and in the man-
5 ner required by the city council or other governing body of such
6 city, town and village to erect, construct, reconstruct and repair
7 the same and it shall be a misdemeanor for any railway or rail-
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8 road company or companies to fail, neglect or refuse to perform
9 such duty, and upon conviction thereof any such company or com-
10 panies shall be fined one hundred dollars and each day such com-
11 pany or companies shall fail, neglect or refuse to perform such

12 duty, shall be deemed and held to be a separate and distinct offense
13 and in addition to the penalty herein provided any such company
14 or companies shall be compelled by mandamus or other appropriate
15 proceedings to erect, construct, reconstruct or repair any via-
16 duct, underground or overhead crossing, as may be required by
17 ordinance as herein provided.

House Bill No. 429

(By MR. HUGUS.)

[Introduced January 25, 1921; referred to the Committee on the Insurance.]

Senate Bill No. 285

(By MR. STEWART.)

[Introduced January 25, 1921; referred to the Committee on the Judiciary.]

House Bill No. 429

A BILL to create the office of Insurance Commissioner and prescribing the powers and duties thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. The office of insurance commissioner is hereby
2 created. The governor shall appoint as insurance commissioner
3 some citizen of this state who shall be a qualified voter, whose
4 term of office shall begin at the date of such appointment, and
5 shall continue for six years and until the successor of such com-
6 missioner is appointed and qualified, unless he be sooner removed.
7 He shall take the oath or affirmation prescribed by section five of
8 article four of the constitution, and such oath shall be certified by
9 the person who administers same and filed with the secretary of
10 state. He shall give bond with good security to be approved by
11 the board of public works, in the penalty of ten thousand dollars
12 (\$10,000.00), and such bond shall also be filed with the secretary
13 of state. The governor may remove such officer in case of in-

14 competence, neglect of duty, gross immorality or malfeasance in
15 office, and in case of a vacancy whether occurring by reason of

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16 removal or otherwise, may declare the office vacant, and fill the
17 same by appointment for the unexpired term.

18 The salary of the insurance commissioner shall be six thousand
19 (\$6,000.00) per year, three thousand dollars (\$3,000.00) of
20 which shall be paid from the state fund, and three thousand dollars
21 (\$3,000.00) from the fire marshal fund as provided by section
22 sixteen of chapter forty-eight of the code. He shall be repaid his
23 actual disbursements for traveling expenses in connection with
24 the business of his office, not exceeding two thousand dollars
25 (\$2,000.00) in any one year, an itemized account of which shall
26 be filed with the auditor to be audited by him before payment
27 thereof. He shall be provided with an office in the capitol and
28 with such furniture, clerks, examiners, actuaries, inspectors, sten-
29 ographers, and other assistance as shall be necessary.

Sec. 2. The insurance commissioner shall see that all laws re-
2 specting insurance companies, surety and guaranty companies, and
3 annuity bond companies are faithfully executed. He shall be
4 custodian of all bonds and other securities required by existing
5 law to be deposited with the auditor or insurance commissioner by
6 insurance companies, annuity bond companies, companies selling
7 speculative securities, and surety and guaranty companies. He
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8 shall be state fire marshal and shall see that the law relating to
9 the state fire marshal department shall be duly executed. He
10 shall be charged with the faithful execution of the law relating
11 to the sale of securities known as the "speculative securities" act.
12 For these purposes there shall inure to him all rights, powers, and
13 duties heretofore inuring to the auditor under chapter thirty-
14 four, section fifteen of chapter fifty-four-c and chapter fifty-five-b
15 of the code, except that the auditor shall continue as attorney-in-
16 fact of all companies complying with section one of said chapter
17 fifty-five-b.

18 All acts and parts of acts inconsistent herewith, are hereby
19 repealed.

House Bill No. 365

(BY MR. GRISSINGER.)

[Introduced January 24, 1921; referred to the Committee on Education.]

House Bill No. 365

A BILL to authorize the board of education of Kanawha district, Fayette county, to make contracts for the construction of school buildings in Kanawha district.

WHEREAS, It is represented to the legislature on behalf of the board of education of Kanawha district, Fayette county, that they are in need of school buildings which will cost at least fifty thousand dollars in addition to the amount that can be raised by regular levy in order to accommodate the students of Kanawha district.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Kanawha district, Fayette county, be, and is hereby authorized and empowered to make contracts for the construction of school buildings in their said district. And said board is further authorized to lay a special levy for the years one thousand nine hundred and twenty-one, and two thousand nine hundred and twenty-two, and one thousand nine hundred and twenty-three and to raise not to exceed fifty thousand dollars in addition to the regular levy.

House Bill No. 414

(BY MR. MANNING.)

[Introduced January 25, 1921; referred to the Committee on the Judiciary.]

House Bill No. 414

A BILL to repeal section seven, of chapter one hundred and forty-eight of the revised code of West Virginia, of the revision of A. D. one thousand nine hundred and thirteen.

Be it enacted by the Legislature of West Virginia:

Section 1. That section seven, of chapter one hundred and
2 forty-eight of the code of West Virginia, of the year A. D. one
3 thousand nine hundred and thirteen, be and the same is hereby
4 repealed.

House Bill No. 432

(By MR. HUGUS)

[Introduced January 25, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 432

A BILL to amend and re-enact section two of chapter seventy-three of
the law of West Virginia, Barnes' code, one thousand nine hun-
dred and sixteen.

Be it enacted by the Legislature of West Virginia:

That section two, of chapter seventy-three of the code of West Vir-
ginia be amended to read as follows:

Section 2. The clerk of the county court of any county in
2 which any deed, contract, power of attorney, or other writing is to
3 be, or may be recorded, shall admit the same to record in his
4 office as to any person whose name is signed thereto, when it shall
5 have been acknowledged by him or proved by two witnesses as to
6 him, before such clerk of the county court, but no writing intended
7 to convey, transfer, or assign any real estate, or any interest in
8 real estate shall be admitted of record unless it contains a state-
9 ment setting forth from what source the grantor acquired his title,
10 and when possible, the book and page where the record thereof may
11 be found.

House Bill No. 219

(By MR. LANTZ.)

[Introduced January 20, 1921; referred to the Committee on the Judiciary.]

House Bill No. 219

A BILL to amend and re-enact chapter one hundred and eight of the code of West Virginia.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred and eight of the code be amended and re-enacted so as to read as follows:

Section 1. A provision in a written contract to settle by arbitration a controversy thereafter arising between the parties to the contract, or a submission hereafter entered into of an existing controversy to arbitration, whether there be a suit pending therefor or not, shall be valid, enforceable and irrevocable, save upon such grounds as exist at law or in equity for the revocation of any contract.

Sec. 2. Upon proof of such agreement, out of court, or by consent of the parties given in court, in person or by counsel, it shall be entered in the proceedings of such court; and thereupon a rule shall be made, that the parties shall submit to the award which shall be made in pursuance of such agreement. And when a pending cause is submitted to arbitration, the defendant may make any defense to the plaintiff's claim or demand, that he

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could make under any proper plea filed in court, whether such plea has been filed or not, by giving to the plaintiff reasonable notice in writing of the nature and character of his defense; and in a suit for any debt, he may at the trial before the arbitrators, prove and have allowed against such debt, any payment or set-off, whether before that time pleaded or not, or whether an account of set-off has before that time been filed or not, which he may plead or file before the arbitrators in such manner as to give the plaintiff notice of its nature, but not otherwise. Although the claim of the plaintiff be jointly against several persons and the set-offs is of a debt, not to all, but only to a part of them, this section shall extend to such set-off, if it appear that the persons

20 against whom such claim is, stand in the relation of principal and
21 surety, and the person entitled to the set-off is the principal. And
22 when the defendant is allowed to file and prove an account of
23 set-off to the plaintiff's demand, the plaintiff shall be allowed to
24 file and prove an account of counter set-off, and make such other
25 defense as he might have made had an original action been brought
26 upon such set-off; and upon the trial the arbitrators shall ascer-
27 tain the true state of indebtedness between the parties and the
28 award shall be rendered accordingly.

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Sec. 3. Upon the return of any such award, made under such
2 agreement, it shall be entered up as the judgment or decree of
3 the court, unless good cause be shown against it at the first term
4 after the parties have been summoned to show cause against it.
5 And the court shall make to such arbitrators such reasonable al-
6 lowance for their services as it may deem proper, to be taxed in the
7 costs of the suit or proceeding, when no provision is made for the
8 pay of the arbitrators in the arbitration agreement, or to be
9 otherwise paid as the court may direct.

Sec. 4. A party agrieved by the failure, neglect or refusal or
2 another to perform under a contract or submission providing for
3 arbitration, may petition the court for an order directing that
4 such arbitration proceed in the manner provided for in such con-
5 tract or submission. Reasonable notice shall be given the party
6 in default of such application, and service thereof shall be made
7 in the manner provided by law for personal service of summons.
8 The court shall hear the parties, and upon being satisfied that the
9 making of the contract or submission or the failure to comply
10 therewith is not in issue, the court hearing such application shall
11 make an order directing the parties to proceed to arbitration in ac-
12 cordance with the terms of the contract or submission. If the

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13 making of the contract or submission or the default be in issue,
14 the court shall proceed summarily to the trial thereof. If no
15 jury trial be demanded by either party, the court shall hear and
16 determine such issue. Where such an issue is raised, any party
17 may on or before the return day of the notice of application, de-
18 mand a jury trial of such issue, and if such demand be made,
19 the court shall make an order referring the issue or
19-a issues to a jury in the manner provided by law for referring to a
20 jury issue in an equity action. If the jury find that no written

21 contract providing for arbitration was made or submission enter-
22 ed into, as the case may be, or that there is no default, the pro-
23 ceedings shall be dismissed. If the jury find that a written con-
24 tract providing for arbitration was made or submission was enter-
25-26 ed into and there is a default in the performance thereof, the
27 court shall make an order summarily directing the parties to the
28 contract or submission to proceed with the arbitration in accord-
29 ance with the terms thereof.

Sec. 5. If, in the contract for arbitration or in the submission,
2 provision be made for a method of naming or appointing an
3 arbitrator or arbitrators or an umpire, such method shall be fol-
4 lowed; but if no method be provided therein, or if a method be
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5 provided and any party thereto shall fail to avail themselves of
6 such method, or for any other reason there shall be a lapse in the
7 naming of an arbitrator or arbitrators or umpire, or in filling
8 a vacancy, then, upon application by either party to the con-
9 troversy, the court shall designate and appoint an arbitrator or
10 arbitrotors or umpire, as the case may require, who shall act un-
11 der the said contract or submission with the same force and effect
12 as if he or they had been specifically named therein; and unless
13 otherwise provided, the arbitration shall be by a single arbitra-
14 tor.

Sec. 6. If any suit or proceeding be brought upon any issue
2 otherwise referable to arbitration under a contract or submission,
3 the court, upon being satisfied that the issue in such suit or pro-
4 ceeding is referable to arbitration under a contract containing a
5 vision for arbitration or under a submission, shall stay the trial
6 of the action until such arbitration has been had in accordance
7 with the terms of the agreement.

Sec. 7. Any application to the court hereunder shall be made
2 and heard in the manner provided by law for the making and
3 hearing of motions, except as otherwise herein expressly pro-
4 vided.

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Sec. 8. Any personal representative of a decedent, guardian
2 of an infant, committee of an insane person, or trustee, may file
3 his petition in the circuit court of the county in which he quali-
4 fied or was appointed, asking permission from such court to sub-
5 mit to arbitration any suit or matter of controversy touching the
6 estate or property of such decedent, infant, insane person, or in

7 respect to which he is trustee. In which petition shall be stated
8 the facts upon which the petitioner seeks the permission of the
8-a court; the court may in its discretion grant or refuse the prayer
9 of the petition. If the petition is filed in good faith, and the
10 petition is granted by the court, an order showing that permission
11 was granted to arbitrate, shall be entered on the chancery order
12 book of the court, and the award made in any such case shall be
13 binding upon all the parties in interest, and shall be entered as
14 the judgment of the court in the same manner as other submis-
15 sions and awards are entered, unless set aside by the court. If
16 the petition is filed in good faith and there was no fault or neglect
17 on the part of the fiduciary, he shall not be responsible for any
18 loss sustained by any award adverse to the interests of his ward,
19 insane person or beneficiary under any such trust.

Sec. 9. Where a party dies after making a submission, if the
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2 submission contains a stipulation authorizing the entry of a
3 judgment upon the award, the award may be confirmed, vacated,
4 modified or corrected, upon the application of, or upon notice to,
5 his executor or administrator, or a temporary administrator of
6 his estate; where it relates to real property, his heir or devisee,
7 who has succeeded to his interest in the real property. Where a
8 committee of the property, or of the person, of a party to a sub-
9 mission is appointed, the award may be confirmed, vacated, modi-
10 fied or corrected, upon the application of, or notice to, a commit-
11 tee of the property; but not otherwise. In a case specified in this
12 section, the court may make an order, extending the time within
13 which notice of a motion to vacate, modify or correct the award
14 must be served. Upon confirming an award, where a party has
15 died since it was filed or delivered, the court must enter judgment
16 in the name of the original party; and the proceedings thereupon
17 are the same as where a party dies after a verdict.

House Bill No. 115

(BY MR. BROWN.)

[Introduced January 19, 1921; referred to the Committee on
Counties, Districts and Municipal Corporations.]

House Bill No. 115

A BILL to fix the salary of the prosecuting attorney of Hancock county; to authorize the employment of a stenographer for use of said prosecuting attorney; to fix the time and manner of payment of their respective salaries and repealing all acts and parts of acts inconsistent with this act.

Be it enacted by the Legislature of West Virginia:

Section 1. The salary of the office of the prosecuting attorney of Hancock county be and the same is hereby fixed at the sum of eighteen hundred dollars per year, which salary shall be paid monthly in the same manner that the salaries of other county officers are paid.

Sec. 2. With the consent of the county court of Hancock county the prosecuting attorney of said county is authorized to employ a stenographer to assist him in the discharge of his official duties, the salary or compensation of said stenographer to be fixed by the county court of said county payable monthly out of the county treasury.

Sec. 3. All acts or parts of acts inconsistent with this act are hereby repealed.

House Bill No. 223

(By MR. McCLINTIC, of Greenbrier.)

[Introduced January 20, 1921; referred to the Committee on Forestry and Conservation.]

House Bill No. 223

A BILL to create a school of forestry at the state University and transfer to the Dean and faculty of said school certain duties now performed by the forest, game and fish warden.

Be it enacted by the Legislature of West Virginia:

A school of forestry shall be maintained by the state

2 University of West Virginia, The dean of said school
3 of forestry shall assume in addition to the duties which
4 devolve upon the dean of such a school the additional
5 duties which are by law now imposed upon the forest, game and
6 fish warden, in so far as the duties of said warden relate to for-
7 ests and forestry and that said dean shall assume any other such
8 duties as shall be hereinafter provided by law.

9 The said dean shall be designated as director of state
10 forests and forestry and upon him shall develop the
11 power of acquiring lands for state forests and game preserves as
12 provided by law and upon him shall be the further duty of preserv-
13 ing, protecting and improving said preserves or reserves.

14 Said director shall discharge all other duties as may be imposed

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15-16 upon him from time to time by laws having to do with forests,
17 forestry, and forest and game reserves of this state.

18 All appropriations which now exist or which from time
19 to time shall be made by the legislature of this state
20 for the acquirement, protection, and improvement of for-
21 est and game preserves be and are hereby directed to
22 be spent by and under the direction and supervision of said direc-
23 tor above designated, said expenditures to be made under the
24 limitations and in the manner prescribed by law governing the
25 expenditure of state funds.

26 All acts inconsistent with the provisions of this act are hereby
27 repealed.

House Bill No. 222

(BY MR. McCLINTIC, of Greenbrier.)

[Introduced January 20, 1921; referred to the Committee on
Medicine and Sanitation.]

House Bill No. 222

A BILL to repeal chapter ninety of the acts of the legislature of
one thousand nine hundred and nineteen, relating to the power

of the public health council to grant license for the practice of medicine and surgery to certain qualified applicants.

Be it enacted by the Legislature of West Virginia:

That chapter ninety of the acts of the legislature of one thousand two hundred and nineteen be and is hereby repealed.

House Bill No. 135

(BY MR. SANDERS.)

[Introduced January 19, 1921; referred to the Committee on the Judiciary.]

House Bill No. 135

A BILL amending and re-enacting section forty-one of chapter one hundred and twenty-five of the code providing that certain allegations in a declaration or other pleading shall be taken and treated in the trial of the case as true, unless denied by an affidavit filed in the case not later than the rule day at which the case matures for trial.

Be it enacted by the Legislature of West Virginia:

That section forty-one of chapter one hundred and twenty-five of the code of West Virginia be amended and re-enacted so as to read as follows:

Section 41. In any action at law, if the declaration or other pleadings filed therein allege that persons whose names are set out are, or have been, a firm, association or copartnership; or that a plaintiff or a defendant or other person is a corporation; or that a person is or has been doing business as a sole trader under a firm name; or that a person, firm or corporation either in person or by agent, made, executed, signed or delivered any contract, deed, bond or other writing; or that a road, street, alley or highway is a public road, street, alley or highway; or that a person, firm or corporation

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10 is a common carrier; or that a person has been appointed and

11 qualified as an executor, administrator, guardian, committee,

12 special or other commissioner, or receiver or to any fiduciary capa-

13 city; or that a person has been elected or appointed to any public
14 office and has qualified for the position, such allegation in the
15 trial of the case shall be taken as true and no proof in support
16 thereof shall be required unless it is denied by an affidavit putting
17 the matter in issue, filed in the case not later than the rule day at
18 which the case matures for trial.

19 All acts and parts thereof inconsistent with this act are hereby
20 repealed.

House Bill No. 367

(By MR. LANTZ)

[Introduced January 24, 1921; referred to the Committee on Roads
and Internal Navigation.]

House Bill No. 367

A BILL to amend and re-enact sections twenty-four, one hundred and
thirty two and one hundred and thirty three of chapter sixty-six
of the acts of the legislature of one thousand nine hundred and
seventeen.

Be it enacted by the Legislature of West Virginia:

That sections twenty-four, one hundred and thirty-two and one
hundred and thirty-three of chapter sixty-six of the acts of the legis-
lature of one thousand nine hundred and seventeen, be amended and
re-enacted to read as follows:

Section 24. There is hereby created a "state road fund" which
2 shall consist of the net proceeds of all state license tax imposed
3 and collected upon automobiles, motor or steam driven vehicles,
4 and the registration fees imposed on chauffeurs on and after the
5 first day of January, one thousand nine hundred and seventeen,
6 and which may hereafter be imposed and collected thereon, and
7 all sums of money which may be donated to such fund, or appro-
8 priated to it by the legislature or by the congress of the United
9 States, as provided by section five of this act, or from any other

10 source. The auditor shall set aside said moneys as the "state

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11 road fund" and it shall be used only for the purposes named in this
12 act. Said state road fund shall be used for the purpose of paying
13 the expenses of the state road commission as approved by the leg-
14 islature, and the balance thereof shall be disposed of as follows:
15 One half of said balance shall be appropriated, set aside and
16 used for the benefit of the system of state roads and highways, to
17 be applied either to the construction and maintenance of said sys-
18 tem of roads and highways, or to pay the interest accruing on,
19 and to create a sinking fund to retire, any bonds that may be issued
20 for such purpose; and the other one half of said balance shall be
21 distributed among the counties annually, in proportion to the mile-
22 age of the main county roads in each county; *provided*, the said
23 county court supplement the same by a like fund.

24 The treasurer of the state shall be the custodian of the state road
25 fund, and all disbursements therefrom shall be paid by him upon
26 order or voucher, approved and signed by the chairman and sec-
27 retary of the state road commission, and directed by the auditor,
28 who shall draw his warrant therefor. All moneys accruing to
29 the state road fund, as aforesaid, are hereby appropriated out of
30 said fund for the purposes and to be paid as aforesaid.

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Sec. 132. The annual registration fee for issuing such certifi-
2 cate and furnishing such plates for all motor vehicles other than
3 motor cycles shall be fifteen dollars for each vehicle weighing two
4 thousand pounds or less, and an additional fifty cents for each one
5 hundred pounds of weight, or fraction thereof, in excess of said
6 two thousand pounds.

Sec. 133. For each set of registration tags issued to a manu-
2 facturer or dealer in vehicles other than motor cycles, a fee of
3 twenty five dollars per year shall be charged. Such tags shall be
4 marked "dealer's tag" and shall be interchangeable among the cars
5 owned and used by such manufacturer or dealer during the fiscal
6 year in which issued; but no such dealer's tag shall be used on any
7 car engaged in transportation for hire, or livery business. The an-
8 nual fee for motor-bicycles, tricycles and motor cycles shall be ten
9 dollars, and for each dealer's tag issued to a dealer handling such
10 motor bicycles, tricycles and motor cycles, a like fee. Tags issue
11 issued to such dealers shall be marked "dealer's tag", and shall

12 be interchangeable as in case of dealer's tags for other motor ve-
13 hicles.

House Bill No. 299

(BY MR. TAYLOR.)

[Introduced January 21, 1921; referred to the Committee on Immigration and Agriculture.]

House Bill No. 299

A BILL amending section three of chapter sixty of the code of West Virginia as amended by chapter thirty-one of the acts of the legislature of one thousand nine hundred and seventeen, regular session, and as further amended by the acts of the legislature of one thousand nine hundred and nineteen, regular session, relating to stock running at large.

Be it enacted by the Legislature of West Virginia:

That section three of the code of West Virginia be amended and re-enacted to read as follows:

Section 3. If any horse, mule, ass, jennet, or cattle, sheep, hogs, goats, shall enter into any grounds enclosed by a lawful fence, the owner or manager of such animals shall be liable to the owner of such grounds for any damage he may sustain thereby. And the party so injured, may, if he finds such stock on his premises, retain them, or a sufficient number thereof, until said damages and costs of keeping be paid.

All acts or parts of acts inconsistent herewith are hereby repealed.

House Bill No. 366

(BY MR. LANTZ)

[Introduced January 24, 1921; referred to the Committee on Roads and Internal Navigation.]

House Bill No. 366

A BILL to provide for a system of state roads and highways and to provide revenue to build, construct and maintain the same.

Be it enacted by the Legislature of West Virginia:

Section 1. That a system of state roads and highways be constructed, as soon as practicable, upon public highways of the state along the routes hereinafter described, as near as may be, and that the state (acting through its officers) be, and is hereby authorized and empowered to issue and sell, and provide for the retirement of, bonds of the state of West Virginia to the amount of fifty million dollars for the purpose of providing means for the payment of the cost, or to aid in paying the cost of the construction of said system of roads and highways.

Sec. 2. The construction of said system of state roads and highways and all work incident thereto, shall be under the general supervision and control of the state road commission of West Virginia, subject to the approval of the governor, and to such regulations and restrictions as may be prescribed by law; and said state road commission is hereby authorized, empowered and directed to take whatever steps may be necessary to cause said system of roads and highways to be constructed at the earliest possible time, consistent with good business management, after this act becomes fully operative.

Sec. 3. All roads and highways shall be built by contract, and all contracts shall be let to the lowest responsible bidder, or bidders, by the state road commission, on such terms and conditions, and on open competitive bidding, after public advertisement, in such manner and for such time as may be prescribed by said state road commission, subject to the approval of the governor. Successful bidders for the construction of work on said roads and highways shall enter into contracts prescribed and furnished by the state road commission and approved by the attorney general of the state,

10 and shall give good and sufficient bonds to insure the prompt and
 11 proper completion of said work in strict accordance with the pro-
 12 visions of said contracts.

13 The state road commission shall have power to make, and shall
 14 make, all final decisions affecting the work provided for in this
 15 section, all the rules and regulations it may deem necessary for
 16 the proper management and conduct of said work, and for the
 17 carrying out of this act, not herein otherwise provided, for, in such
 18 manner as shall be to the best interest and advantage of the peo-
 19 ple of the state.

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Sec. 4. The general location of the routes upon and along
 2 which said roads and highways are to be constructed shall be sub-
 3 stantially as described in this section; the state road commission
 4 having the right to make such minor changes in the location of
 5 the roads and highways as may become necessary in order to carry
 6 out the provisions of this act.

7

Route Number One.

8 Beginning at Bluefield, in Mercer county, and running in a
 9 northerly direction so as to connect Princeton, Beckley, Fayette-
 10 ville, Summerville, Sutton, Weston, Clarksburg, Wallace, Pine
 11 Grove, New Martinsville, Moundsville, and Wheeling and to be
 12 named and known as "The north and south high-way."

13

Route Number Two.

14 Beginning at Parkersburg in Wood county and running in an
 15 easterly direction by the shortest practical route, so as to connect
 16 Elizabeth, Grantsville, Glenville, Weston, Buckhannon and Elkins
 17 and *via* Huttonsville, Durbin and Bartow to the Virginia state line
 18 on the route to Monterey; to be named and known as "The Park-
 19 ersburg-Staunton highway."

20

Route Number Three.

21 Beginning at Clarksburg in Harrison county and running by

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22 the shortest practical route so as to connect Fairmont, Morgan-
 23 town and Kingwood.

24

Route Number Four.

25 Beginning at Charles Town in Jefferson county and
 26 running in a westerly direction, by the shortest practical route, so
 27 as to connect Martinsburg, Berkeley Springs, Romney and Keyser,
 28 and *via* Gormanville to the Maryland state line.

29 *Route Number Five.*

30 Beginning at Romney in Hampshire county and running by the
31 shortest practical route so as to connect Moorefield, Petersburg and
32 Franklin and to Bartow, Pocahontas county, on the Parkersburg-
33 Staunton highway.

34 *Route Number Six.*

35 Beginning at Huttonsville in Randolph county and running by
36 the shortest practical route so as to connect Marlinton, Lewisburg,
37 Union and Hinton.

38 *Route Number Seven.*

39 Beginning at Valley Head in route number six and running by
40 the shortest practical route via Webster Springs to connect with
41 the north and south highway (route number one).

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42 *Route Number Eight.*

43 Beginning at Beckley in Raleigh county and running by the
44 shortest practical route so as to connect Pineville and Welch.

45 *Route Number Nine.*

46 Beginning at or near Kanawha Falls on the north and south
47 highway and running by the shortest practical route so as to con-
48 nect Charleston, Hamlin, Huntington and Wayne.

49 *Route Number Ten.*

50 Beginning at Charleston in Kanawha county and running by the
51 shortest practical route so as to connect Madison, Logan, and
52 Williamson.

53 *Route Number Eleven.*

54 Beginning at Charleston in Kanawha county and running by the
55 shortest practical route via Winfield to Point Pleasant in Mason
56 county.

57 *Route Number Twelve.*

58 Beginning at Grantsville in Calhoun county and running by the
59 shortest practical route via Arnoldsburg and Clay to a point in
60 the north and south highway (route number one near Belva.)

61 *Route Number Thirteen.*

62 Beginning at Ravenswood in Jackson county and running by the
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63 shortest practical route so as to connect Ripley and Spencer to Ar-
64 noldsburg in route number twelve.

65 *Route Number Fourteen.*

66 Beginning at Parkersburg in Wood county and running by the
67 shortest practical route so as to connect Harrisville, West Union,

68 Clarksburg and Grafton, and *via* Macomber to the Maryland state
69 line.

70 *Route Number Fifteen.*

71 Beginning at St. Marys in Pleasants county and running by the
72 shortest practical route to Ellenboro in route number fourteen.

73 *Route Number Sixteen.*

74 Beginning at New Martinsville in Wetzel county and running
75 by the shortest practical route via Sistersville and Middlebourne
76 to West Union, in route number fourteen.

77 *Route Number Seventeen.*

78 Beginning at Fairmont in Marion county and running by the
79 shortest practical route so as to connect Grafton and Philippi, to
80 Parsons in Tucker county.

81 *Route Number Eighteen.*

82 Beginning at Wheeling, in Ohio county and running by the
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83 shortest practical route so as to connect Wellsburg and New Cum-
84 berland, to Chester in Hancock county.

Sec. 5. The system of state roads and highways shall be con-
2 structed in strict accordance with the plans, specifications, esti-
3 mates of cost and contracts of the state road commission. Before
4 entering into contracts for the construction of said roads and
5 highways, and immediately after this act becomes effective, the
6 state road commission shall cause to be made reconnoissance sur-
7 veys and maps, plans and specifications of said roads and high-
8 ways, together with approximate estimates of the cost of con-
9 structing same. The said "north and south highway" (route num-
10 ber one) shall be not less than eighteen feet in width and shall be
10-a constructed of reinforced concrete or brick laid on con-
11 crete base, and all other roads and highways shall be
12 not less than ten nor more than eighteen feet wide and
13 built of brick, concrete or other material prescribed
14 and approved by the state road commission and to meet the ap-
15 proval and requirements of the federal bureau of roads. When
16 practical, none of said roads and highways shall have a grade ex-
17 ceeding five feet rise in each one hundred feet, unless it shall be
18 found necessary to have a steeper grade, and in no case shall the

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19 grade exceed nine feet in the one hundred feet. The right of way
20 for such roads and highways shall be not less than forty feet wide,

21 with necessary slopes for cuts and fills, and where the contour
22 of the surface permits and is practicable, in making fills, exca-
23 vations and gradings for the construction of such roads and high-
24 ways, the surface of the earth alongside shall be so left that ve-
25 hicles may drive over same and such surface shall be of such grade
26 that vehicles can turn on and off such roads and highways with
27 safety and convenience. All roads and highways shall have drain-
28 age structures of permanent construction, and all "breakers" shall
29 be eliminated.

Sec. 6. Whenever any road, highway, bridge or culvert in the
2 system of state roads and highways is being built or repaired, the
3 public officers having such work in charge shall, when they deem it
4 necessary, erect or cause to be erected at such points as they may
5 deem desirable, suitable barriers, with signs thereon, stating that
6 such road or highways are closed, and by whose orders same has
7 been closed. Such officials shall erect or cause to be erected at such
8 places as they may deem best, detour signs directing travel around
9 such construction or repair work. Whenever any road or highway
10 has been closed as provided herein, it shall be unlawful for any
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11 person to remove such barrier or signs, or to deface or injure the
12 same, or to walk, ride or drive upon any part of said road or high-
13 way so closed, except such persons duly authorized to do so, and
14 any person violating the foregoing shall be deemed guilty of a mis-
15 demeanor and upon conviction thereof shall be fined not to exceed
16 one hundred dollars or shall be imprisoned in the county jail not
17 to exceed six months, or both, in the discretion of the court for
18 each offense. In addition thereto such person convicted shall be
19 held liable for any and all damages caused to said road or
20 highway, bridge or culvert work by reason of his violation of the
21 foregoing provision.

22 Sec. 7. The state road commission shall divide said roads or
23 highways into convenient sections or divisions for construction
24 purposes, and shall make all reasonable efforts to have the entire
25 system of state roads and highways herein provided for, com-
26 pleted within five years from the time this act becomes effective.
27 The construction work shall, so far as practically possible, be com-
28 menced in all the different counties of the state at approximately
29 the same time and carried on continuously until all work is com-
30 pleted.

Sec. 8. Where any part of the system of state roads and highways runs through or into a county or municipal district over a paved road that has been constructed by such county or district, either with or without state or federal aid, or over a road or highway that has been graded by such county or municipal district, with or without state or federal aid, if such paved road or such grade is of proper type to make it practicable to do so, the state road commission shall utilize such paved road or grade in said system of state roads and highways.

When such paved road or grade is used as a part of the system of state roads and highways, then, and in that case said road shall thereafter be maintained by the state.

Sec. 9. For the purpose of raising funds to carry out the provisions of this act, there is hereby created an issue of engraved coupon bonds of the state of West Virginia to the face value of fifty million dollars, and the treasurer and auditor of this state shall cause said bonds and coupons to be engraved as soon as may be after this act takes effect. They shall be serial bonds and shall be dated as when issued, and be payable thirty years after date at the office of the treasurer of this state, with the right reserved to the state of West Virginia to redeem any of said bonds

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vided, however, that if money from other sources of revenue has been appropriated and set apart for the same purpose for which said direct annual tax is hereby levied and imposed, then said board of public works shall, in fixing said rate of said direct annual tax, make proper allowance and reduction for any money so appropriated and set apart from other sources of revenue.

Sec. 13. The board of public works is hereby authorized and directed annually to apply said sinking fund to the purchase at a rate not to exceed par and accrued interest, or redemption at par and accrued interest, of the bonds issued under this act, and the bonds so purchased or redeemed shall be canceled by the said board of public works, and the same registered by the auditor in a book kept for that purpose, giving the number, date of issue, character, amount and owner, if known, at time of purchase of bond so redeemed and canceled; and in case no such purchase of bonds shall be made, then the serial numbers of the bonds to be redeemed, as hereinbefore provided, shall be determined by

12 lot by the auditor and treasurer and notice of the bonds so
13 selected to be redeemed shall be given by publication, once every
14 two weeks beginning at least sixty days prior to an interest due
15 date, in a newspaper published in Charleston, West Virginia,

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16 and in a newspaper published in New York city, and interest
17 from and after the next succeeding interest due date shall cease
18 upon the bonds so designated to be paid.

Sec. 14. The public highways upon which said system of state
2 roads and highways are being constructed shall, during the con-
3 struction period and continuously thereafter, be under the juris-
4 diction and control of the state road commission; and after a
5 road or highway in said system has been completed and taken
6 over by the said state road commission, said road or highway
7 shall thereafter be maintained by the state.

Sec. 15. The state road commission shall, on or before the
2 first day of November of each year, make a full report to the
3 governor of all business transacted by said commission in carry-
4 ing out the provisions of this act, during the year ending on the
5 thirtieth day of June next preceding. The governor may cause
6 the books and affairs of the commission relating to the work pro-
7 vided for herein, to be audited each year.

Sec. 16. All acts and parts of acts coming within the purview
2 of this act and inconsistent herewith are hereby repealed.

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10 at any time after five years from the date thereof, at par, with
11 accrued interest as hereinafter provided. Said bonds shall bear
12 interest at the rate of five per centum per annum, payable semi-
13 annually upon presentation and surrender of the coupon represent-
14 ing interest then due; and may be registered as to principal with
15 the auditor of this state, at the request of the owners.

16 Each one of said bonds shall be of the denomination of five
17 hundred dollars or some multiple thereof, shall be signed by the
18 treasurer of the state of West Virginia, and countersigned by
19 her auditor, and the interest coupons shall bear the lithographed
20 *fac-simile* signature of the treasurer, said bonds shall be de-
21 posited with the state treasurer to be issued and sold from time
22 to time by order of the state road commission, as said road con-
23 struction work progresses, and in such amounts as may be neces-
24 sary to provide sufficient money to pay for said work and ex-

25 penses incidental thereto; and the proceeds shall be paid into the
 26 state treasury and be kept in a separate fund to be known as
 27 the state road system fund, to which shall be added all sums of
 28 money appropriated to or donated to said fund from any source.

Sec. 10. All payments for work done or obligations incurred
 2 under the provisions of this act, except as herein otherwise pro-
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3 vided for, shall be made by the treasurer of this state out of said
 4 state road system fund upon warrants drawn by the auditor of
 5 the state based upon bills of particulars and vouchers certified
 6 for payment by the state road commission by its officers duly
 7 authorized to do so; and said fund is hereby appropriated and
 8 set aside and shall be used only for the purposes mentioned in
 9 this act.

Sec. 11. If any available money from any source remains in
 2 the state road system fund after the above described roads and
 3 highways are completed and paid for, said state road commission
 4 shall use such money to construct other similar roads and high-
 5 ways so as to extend said system in such a way as to be of the
 6 greatest benefit, in the judgment of said commission, to the people
 7 of the state.

House Bill No. 358

(By MR. RAMSEY, by request)

[Introduced January 24, 1921; referred to the Committee on Coun-
 ties, Districts and Municipal Corporations.]

House Bill No. 358

A BILL to authorize the county court of Nicholas county to estab-
 lish and maintain a poor farm, for all resident poor in said
 county, to lay the necessary levies, to employ a superintendent of
 such farm and other help, to purchase farm, to construct neces-
 sary buildings and equip the same and to prescribe rules and
 regulations for the maintenance of said poor farm.

Be it enacted by the Legislature of West Virginia: ..

Section 1. The county court of Nicholas county is hereby au-

2 thorized and empowered to acquire land for the purpose of estab-
3 lishing poor farm and maintain the same in said county as herein
4 provided for the benefit of all the poor in said county and to pre-
5 scribe rules and regulations for the government and maintenance
6 of said farm.

Sec. 2. Said county court is authorized to appoint for a term
2 of four years from the first day of July after this act shall take
3 effect and every four years thereafter a competent superintendent
4 of said farm who shall have had at least five years practical expe-
5 rience in farming in said county, and who is a member in good
6 standing in the state farmer's association, who shall be known as
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7 the superintendent of the county poor farm and fix his salary at
8 not more than two thousand dollars per year, and said superintend-
9 ent may be removed as provided by section seven of chapter seven
10 of the code of West Virginia.

Sec. 3. Said county court is authorized to acquire by con-
2 demnation or otherwise a farm in said county for such purposes
3 and equip such farm with all supplies and materials that may be
4 necessary to establish and maintain said poor farm and pay for the
5 same out of the funds hereinafter provided and to prescribe rules
6 and regulations for the government and management for said poor
7 farm.

Sec. 4. Said county court is authorized to lay a levy not to ex-
2 ceed five cents on every hundred dollars of valuation of the tax-
3 able property in the county according to the last assessment thereof
4 for the year one thousand nine hundred and twenty and a like
5 amount for the years one thousand nine hundred and twenty-one
6 and one thousand nine hundred and twenty-two and twenty-three
7 and to lay a levy not to exceed five cents on every one hundred dol-
8 lars of valuation of the taxable property in the county according
9 to the last assessment thereof for the year one thousand nine hun-
10 dred twenty-one and each succeeding year thereafter to pay the ex-
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11 penses and costs of establishing and maintaining such poor farm,
12 which shall be known as the poor farm fund.

Sec. 5. Said superintendent of poor farm shall with the ap-
2 proval of the county court employ as many laborers or nurses as
3 may in his judgment be necessary for the successful operation of
4 said poor farm; said county court shall fix the salaries of such em-
5 ployees and they shall be subject to the directions and control of

6 said superintendent and may be removed or discharged by him at
7 any time he may deem advisable.

Sec. 6. Said county court shall require said superintendent to
2 keep books of account and complete records of everything affecting
3 the operation and maintenance of said farm and shall make reports
4 in writing showing the condition of said farm and the condition
5 of each person admitted therein twice each year at such time as
6 may be designated by the county court.

Sec. 7. All persons employed under this act shall be paid
2 monthly out of the funds hereinbefore provided upon requisition
3 issued by the superintendent in the manner prescribed by the
4 county court.

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Sec. 8. All property lying and situated within the territory of
2 the city of Richwood is herein specifically exempted from the op-
3 eration of this act.

N. B.

COMMITTEE SUBSTITUTE FOR

House Bill No. 522

(BY THE COMMITTEE ON TAXATION AND FINANCE)

A BILL authorizing the state of West Virginia to issue and sell not
exceeding twenty million dollars of its bonds to raise money for
road construction purposes under and by virtue of the "Good
Roads Amendment" to the constitution adopted at the general
election held November, one thousand nine hundred and twenty;
and to provide for the levy and collection of an annual state tax
sufficient to pay semi-annually the interest on said bonds and the
principal thereof within twenty years.

Be it enacted by the Legislature of West Virginia:

Section 1. That bonds of the state of West Virginia of the
2 par value of twenty million dollars (\$20,000,000) are hereby au-
3 thorized to be issued and sold for the purpose of raising funds to
4 build, construct and maintain a system of state roads and high-

5 ways in the state of West Virginia, as authorized by the "Good
6 Roads Amendment" to the constitution of said state adopted at the
7 general election held in November one thousand nine hundred and
8 twenty.

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Sec. 2. Said bonds shall be dated July first, one thousand nine
2 hundred and twenty-one, and shall become due and payable in
3 twenty years from the date of issue and may be coupon or regis-
4 tered and in such denominations as the governor may determine.

5 The auditor and treasurer are authorized to arrange for the
6 the transfer of registered bonds and for each such transfer a fee
7 of fifty cents shall be charged by and paid to the state of
8 West Virginia to the credit of the sinking fund. Bonds taken
9 in exchange shall be cancelled by the auditor and treasurer and
10 be carefully preserved by the treasurer.

11 All of such bonds shall be payable at the office of the treasurer
12 of the state of West Virginia, or, at the option of the holder of
13 said bonds, at some bank in the city of New York. Said bonds
14 shall be interest bearing at the rate of not exceeding six per
15 centum per annum and the said interest shall be payable semi-an-
16 nually on the first day of January and July of each year to bearer
17 at the office of the treasurer of the state of West Virginia at the
18 capitol of said state, or, at the option of the holder, in some bank
19 in New York City, upon presentation and surrender of the inter-
20 est coupons representing interest then due, in the case of the cou-
21 pon bonds. In the case of registered bonds, the treasurer of the
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22 state of West Virginia shall issue his check for the payment of in-
23 interest on the first day of January and July of each year for the
24 amount of registered bonds outstanding as shown by the records of
25 his office.

26 Both the principal and interest of said bonds shall be payable in
27 gold coin of the United States of the present standard of weight
28 and fineness.

Sec. 3. Said bonds and coupons shall be engraved and the
2 bonds shall be signed, on behalf of the state of West Virginia, by
3 the treasurer thereof, under the great seal of the state, and coun-
4 tersigned by the auditor, and shall be in the following form and to
5 the following effect, as near as may be, namely:

6 COUPON GOLD BOND
 7 (or Registered Gold Bond,
 8 as the case may be)
 8-a of the
 9 State of West Virginia

10 Series of 1921 Number

11 The state of West Virginia, under and by virtue of authority of
 12 an act of its legislature passed at the regular session of one thou-
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13 sand nine hundred and twenty-one, on the . . . day of,
 14 one thousand nine hundred and twenty-one, and approved by the
 15 governor on the day of, one thousand
 16 nine hundred and twenty-one, reference to which is hereby made
 17 as fully and at length as if set forth herein, acknowledges itself to
 18 be indebted to, and hereby promises to pay to the bearer hereof (in
 19 the case of a coupon bond) or to (the
 20 owner of record, in the case of registered bonds) twenty years
 21 after the date of this bond, to-wit, on the . . . day of,
 22 one thousand nine hundred and forty-one, in gold coin of the
 23 United States at the present standard of weight and fineness, at
 24 the office of the treasurer of the state of West Virginia, at the cap-
 25 ital of said state, or at the option of the holder at
 26 bank in the city of New York, the sum of
 27 dollars, with interest thereon at
 28 per annum from date, payable semi-annually in gold coin of the
 29 United States, at the treasurer's office or bank foresaid, on the
 30 first day of January and first day of July of each year, according
 31 to the tenor of the annexed coupons, bearing the engraved facsimile
 32 of the treasurer of the state of West Virginia.

33 To secure the payment of this bond, principal sum and interest,
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18 ficient to pay the interest on said bonds accruing during the cur-
 19 rent year.

20 The authority hereby vested in the board of public works shall
 21 be in addition to the authority now vested in it by present law.

Sec. 8. The governor shall sell all bonds herein mentioned at
 2 such time or times as he may determine necessary to provide funds
 3 for road construction purposes, as herein provided, upon rec-
 4 ommendation of the state road commission. All sales shall be
 5 at not less than par and interest accrued since the last semi-an-
 6 nual dividend period. All interest coupons becoming payable prior

7 to said sale date shall be cancelled by the treasurer and rendered
8 ineffective before the delivery of the bonds so sold.

Sec. 9. The plates from which the bonds authorized by this
2 act are printed shall be the property of the state of West Virginia.

Sec. 10. All necessary expenses incurred in the execution of
2 this act shall be paid out of any money in the treasury of the
3 state of West Virginia, not otherwise appropriated, on warrants
4 of the auditor of the state drawn on the state treasurer.

Sec. 11. The state auditor shall be the custodian of all un-
2 sold bonds issued pursuant to the provisions of this act.

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34 when othed funds and revenues are not available for that purpose,
35 it is agreed that the board of public works of the state of West
36 Virginia shall annually cause to be levied and collected an annual
37 state tax on all property in the state, until said bond is fully paid,
38 sufficient to pay the annual interest on said bonds and the prin-
39 cipal sum thereof within twenty years from the date hereof.

40 This bond is hereby made exempt from any taxation by the state
41 of West Virginia, or by any county, district, or municipal cor-
42 poration thereof.

43 In testimony whereof, witness the signature of
44, treasurer of the state of West Virginia, and the counter
45 signature of, auditor of said state, hereto
46 affixed according to law, dated the day of,
47 one thousand nine hundred and, and the seal of the
48 state of West Virginia.

49 (Seal)

50 Treasurer of the state of West Virginia.

51

52 Auditor of the state of West Virginia.

Sec. 4. The form of coupons shall be substantially as follows,
2 to-wit:

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3 State of West Virginia

4 Bond No.

Coupon No.

5 \$.

6 On the first day of, 19...., the state of
7 West Virginia will pay to bearer, in gold coin of the United
8 States of the present standard of weight and fineness, at the offic
9 of the treasurer of the state, or at the option of the holder at
9-abank, in New York City the sum of

10 dollars, same being the semi-annual in-
 11 terest on Bond No.

12

13 Treasurer of the state of West Virginia.

14 The signature of the treasurer to said coupons shall be by his
 15 engraved facsimile signature, and each coupon shall be impressed
 16 on the back with its number in order of maturity from number
 17 one consecutively.

Sec. 5. All coupons and registered bonds issued under this act
 2 shall be separately listed by the Auditor of the state in books pro-
 3 vided for the purpose, in each case giving the date, number, char-
 4 acter and amount of obligations issued, and, in case of registered
 5 bonds, the name of person, firm, or corporation to whom issued.

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Sec. 6. A fund is hereby created, designated as the state road
 2 sinking fund. Into this fund shall be paid all moneys received from
 3 the annual state tax levy on the taxable property in the state,
 4 from any and all appropriations made by the state from other
 5 sources for the purpose of paying the interest on said bonds or of
 6 paying off and retiring same, from fines, forfeitures and penalties,
 7 if any, made applicable by law for the payment of said bonds or
 8 the interest thereon, from transfer fees as herein provided, and
 9 from any source whatsoever, which is made liable by law for the
 10 payment of the principal of said bonds or the interest thereon.

11 All such funds shall be kept by the treasurer in a separate ac-
 12 count, under the designation aforesaid, and all moneys belong-
 13 ing to said fund shall be deposited in the state treasury to the
 14 credit thereof.

15 Said fund shall be applied by the Treasurer of the state, first
 16 to the payment of the semi-annual interest on said bonds as it be-
 17 comes due as herein provided. The remainder of said fund shall
 18 be turned over by the state treasurer to the state sinking fund com-
 19 mission, whose duty it shall be to invest the same in the bonds of
 20 the Government of the United States, the bonds of the state of
 21 West Virginia, or any political subdivision thereof; *provided, how-*

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22 *ever*, that bonds so purchased by the said state sinking fund com-
 23 mission shall expire on or before July first, one thousand nine
 24 hundred and forty-one.

Sec. 7. In order to provide the revenues necessary for the
 2 payment of the principal and interest of said bonds, as herein-

3 before provided, the board of public works is authorized, em-
4 powered and directed to lay annually a tax upon all the real and
5 personal property subject to taxation within this state, sufficient
6 to pay the interest on said bonds accruing during the current year
7 and one-twentieth of the total issue (at par value) of said bonds, for
8 such number of years, not exceeding twenty, as may be neces-
9 sary to pay the interest thereon and to pay off the principal sum
10 of said bonds; and said taxes, when so collected, shall not be liable
11 for or applicable to any other purpose.

House Bill No. 311

(BY MR. MOORE, of Marshall.)

[Introduced January 22, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 311

A BILL to amend and re-enact section eight-a of chapter one hundred and fifty of Barnes code of West Virginia, of one thousand nine hundred and sixteen, relating to physicians and surgeons, and examination and qualification of same, setting forth who are deemed practitioners.

Be it enacted by the Legislature of West Virginia:

Section 8-a. The public health council, consisting of the commissioner of health and six other members as specified in section three of this act, shall, in addition to the duties hereinbefore or hereinafter specified, examine all applicants for license for the practice of medicine and surgery in this state, and issue certificates of license to all applicants who are legally entitled to receive same; and said certificates of license shall be signed by the president of the council and by the commissioner of health as secretary thereof. The examination of applicants and the issuing of certificates of license thereto shall be governed by sections nine, ten and eleven of chapter one hundred and fifty of the code of West Virginia, and the words "state board of health," wherever used in said sections, shall mean public health council, as estab-

lished by this act. The term "practice of medicine and surgery" as used by this act shall be construed to be treatment of any human ailment or infirmity by any method. To open an office for such purpose or to announce to the public in any way a readiness to treat the sick or afflicted, shall be deemed to engage in the practice of medicine and surgery within the meaning of this act; *provided*, this clause shall not apply, however,, to regularly registered optometrists; and *provided, further*, that nothing in this act shall be construed as interfering with any religious beliefs in the treatment of diseases or afflictions when sanitary and quarantine laws, rules and regulations are not infringed upon.

House Bill No. 301

(BY MR. McCLINTIC, of Greenbrier.)

[Introduced January 21, 1921; referred to the Committee on Humane Institutions and Public Buildings.]

House Bill No. 301

A BILL to dispose of the present existing county poor farms and the establishment of district infirmaries in each senatorial district.

Be it enacted by the Legislature of West Virginia:

That the county courts do and are hereby authorized to dispose of the county poor farms in the state as is hereinafter provided.

That there shall be maintained in each senatorial district of the state one district infirmary for the poor, said district infirmary to be maintained and supported by the counties in said district in which said district infirmary is located.

That the site and location of said district infirmary shall be determined by a commission, said commission to consist of the presidents of the county courts of the district.

That each county in the district shall contribute to the purchase and maintenance of a farm for said district infirmary and to the building and equipping and maintenance of the necessary buildings thereof in proportion to the population of said counties as given in the last decennial census of the United States govern-

15 ment; *provided, however*, that in no instance shall any county

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16 contribute to the buildings and equipment an amount greater than
17 sixty per cent. of the net sum realized from the sale of its own
18 county infirmary.

19 That the erection and equipment of all buildings shall be done
20 by the commission hereinbefore designated.

21 That the rules governing the receiving of bids, on buildings,
22 materials and equipment and the hiring of superintendents,
23 nurses, teachers and other employees shall be the same as those
24 of the state board of control which are used to govern similar
25 enterprises and transactions.

26 That full provision shall be made for the segregation of all the
27 inmates by age, sex and race as is deemed advisable.

28 That commitment of persons to said district infirmary shall
29 be in accord with the provisions made by law in Barnes' code, chap-
30 ter forty-six of one thousand nine hundred and sixteen and any
31 other laws that may hereinafter be provided or passed.

House Bill No. 395

(By MR. WYSONG)

[Introduced January 25, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 395

A BILL providing for the nomination of state, congressional, senatorial, judicial, county and district officers in the state of West Virginia.

Be it enacted by the Legislature of West Virginia:

Section 1. Each party shall hold in each voting precinct of
2 this state, at 2:30 o'clock p. m., on the second Tuesday in April
3 of each year when there is to be elected any state, county, con-
4 gressional, senatorial, judicial or district officers, a mass con-
5 vention. These precinct conventions shall nominate one delegate
6 for each fifty legal voters, or fraction thereof, determined by
7 the last general election, to a district delegate convention which

8 shall be held on the fourth Tuesday in April, at a point to be
 9 designated by the county executive committee, which district del-
 10 egate convention shall nominate all district officers and one
 11 delegate from each voting precinct for each one hundred legal
 12 voters, or fraction thereof, to a county convention to be held on
 13 the second Tuesday in May of each general election year at the
 14 county seat. Said county convention to first nominate all county
 15 officers and also to nominate delegates to a senatorial, congress-

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16 sional, judicial and state conventions. There shall be nominated
 17 one delegate from each magisterial district for each three hundred
 18 legal voters, or fraction thereof, to any senatorial, congressional
 19 or judicial convention. There shall be one delegate from each
 20 magisterial district for each one thousand legal voters or frac-
 21 tion thereof to the state convention.

Sec. 2. Each political party in each senatorial district, shall
 2 on the third Tuesday in May in any year in which there is to
 3 be a state senator elected, hold a convention at the county seat
 4 of the county casting the greatest number of votes in the last
 5 general election in the party holding said convention.

Sec. 3. There shall be held in each congressional district of
 2 this state on the fourth Tuesday in May, at the county seat of
 3 the county casting the largest number of votes in the general
 4 election, next preceding the convention, of the respective parties
 5 desiring to nominate candidates for the general election.

Sec. 4. Each political party desiring to nominate state offi-
 2 cers for any general or special election and who held precinct
 3 conventions at the time specified in section one of this act, shall
 4 hold a state convention at the time and place designated by the
 5 state executive committee of the respective parties, which con-

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6 vention shall first nominate all state officers and in years when
 7 there is to be a presidential election shall nominate delegates to
 8 the national convention in the number as prescribed by law.

Sec. 5. Each judicial district in the state shall nominate a
 2 candidate for circuit judge on the fourth Tuesday in July, when
 3 there is to be a circuit judge elected, by a convention held in
 4 the county casting the largest number of votes in the respective
 5 parties holding such conventions.

Sec. 6. The presiding officer and secretary of each precinct

2 mass convention shall certify to the district convention the names
 3 and residences of the delegates elected at said convention. The
 4 presiding officer and secretary of each magisterial convention shall
 5 certify to the ballot commissioner the district officers nominated
 6 at said convention. They shall also certify to the county con-
 7 vention the names and residence of all the delegates elected to
 8 the county convention. The presiding officer and secretary of
 9 the county convention shall certify to the secretary of state the
 10 names and residence of all the delegates elected to the state con-
 11 vention. Also to the county and circuit clerks and ballot com-
 12 missioners the names of all the county officers that have been
 13 nominated. They shall also certify to the senatorial, congres-
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 14 sional and judicial conventions the names and residence of all
 15 delegates elected to said conventions.

Sec. 7. All acts or parts of acts inconsistent or in conflict
 2 with this act are hereby repealed.

House Bill No. 127

(BY MR. OTTO.)

[Introduced January 19, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 127

A BILL establishing a state athletic commission regulating boxing,
 sparring and wrestling in the state of West Virginia, and re-
 pealing section twenty-seven-a of chapter one hundred and forty-
 four of the code of West Virginia of one thousand nine hundred
 and thirteen.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created a board to be known as the
 2 state athletic commission of West Virginia. Within thirty days
 3 after this act takes effect the governor shall appoint three persons
 4 to be members of such commission, one of whom shall serve until
 5 July first, one thousand nine hundred and twenty-one, one until
 6 July first, one thousand nine hundred and twenty-three, one until

7 July first, one thousand nine hundred and twenty-five.

8 At the expiration of the term of each member his successor shall
9 be appointed for a term of six years. In the event of a vacancy
10 in said board, said vacancy shall likewise be filled by appointment
11 of the governor. Any two members of the commission shall con-
12 stitute a quorum for the exercise of the power or authority con-
13 ferred upon it. The members of the commission shall at the first

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14 meeting after their appointment elect one of their number chair-
15 man of the commission and another of their number secretary of
16 the commission, shall adopt a seal for the commission and shall
17 make such rules for the administration of their office, not in-
18 consistent herewith, as they may deem expedient; and they may
19 hereafter amend or abrogate such rules. The concurrence of at
20 least two commissioners shall be necessary to render a choice or
21 decision by the commission.

Sec. 2. The officers of the commission may be changed at
2 pleasure by the said commission. It shall be the duty of the
3 secretary to keep a full and true record of all proceedings of said
4 commission, to preserve all its books, documents and papers, to
5 prepare for service such notices and other papers as may be re-
6 quired of him by the commission, and to perform such other duties
7 as the commission may prescribe; and he may, under direction
8 of the commission, issue subpoenas for the attendance of wit-
9 nesses before the commission with the same effect as if they were
10 issued in an action in any circuit court of the state, and may ad-
11 minister oaths in all matters pertaining to the duties of his office
12 or connected with the administration of the affairs of the com-
13 mission.

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14 Disobedience of such subpoena and false swearing before such
15 secretary shall be attended by the same consequences and be sub-
16 ject to the same penalties as if such disobedience or false swearing
17 occurred in action in any circuit court of the state. The commis-
18 sioner, shall make to the legislature biennial reports of the pro-
19 ceedings for the two years ending with the last day of the pre-
20 ceding December, and may submit with such report, such recom-
21 mendations pertaining to its affairs as to it shall seem admissible.

Sec. 3. The commission shall retain out of all moneys received
2 by it, as hereinafter provided, the sum of five thousand dollars,
3 which sum shall cover all necessary traveling and other necessary

4 expense of the members of the commission, and any and all com-
5 pensation to the secretary and the other members of the said com-
6 mission; all moneys so received by said commission in excess of
7 said sum of five thousand dollars be by the secretary of said com-
8 mission paid over to the treasurer together with the full finan-
9 cial statement of all moneys received and expended, and the sec-
10 retary of the commission shall annually make report of the fiscal
11 affairs of the commission for the preceding year to the treasurer
12 of the state of West Virginia.

Sec. 4. The commission may designate as its official head-

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2 quarters the residence or place of business of any one of its mem-
3 bers, or may, if it chooses, maintain an office, but the expense of
4 said office, in case such is maintained, shall also be paid out of the
5 sum of five thousand dollars provided for in section threee.

Sec. 5. The commission shall have and hereby is vested with
2 the sole direction, management and control of and jurisdiction
3 over all boxing, wrestling and sparring matches and exhibitions
4 to be conducted, held or given within the state by any club, cor-
5 poration or association; and no boxing or sparring match or ex-
6 hibition shall be conducted, held or given within the state except
7 pursuant to its authority and held in provision in accordance with
8 this act. The commission may, in its discretion, issue and, at its
9 pleasure, revoke the license to conduct, hold or give boxing and
10 sparring matches and exhibitions to any club, corporation or as-
11 sociation which shall at the time of application therefor is made
12 own or hold a lease at least one year upon the building wherein it
13 may be proposed to conduct, hold or give such boxing or sparring
14 match or exhibition; but no such license shall be granted.
15 Every license shall be subject to such rules and regulations and
16 amendments thereto as the commission may prescribe. Every
17 application for a license, as herein provided for, shall be in writ-
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18 ing and shall be addressed to the commission and shall be veri-
19 fied by some officer of the club, corporation or association on
20 whose behalf the application may be made. It shall contain a
21 recital of such facts as, under the provisions hereof, will show the
22 applicant entitled to receive a license and, in addition thereto,
23 such other facts and recitals as the commission may by rule require
24 to be shown. But no license shall be granted to any club, corpo-
25 ration or association which shall have as a member, director,

26 partner, or stockholder any person other than a bona fide resi-
27 dent of the state of West Virginia. Upon the issuance of such
28 license by the commission, the applicant shall present such license
29 to the clerk of the county court of the county in which such appli-
30 cant intends to conduct a club, whereupon the said clerk of the
31 county court shall issue to the applicant a license to conduct a
32 boxing club, which license shall expire on the thirtieth day of
33 June next succeeding the date of such license. For such license
34 For such license the applicant shall pay a state license tax of five
35 hundred dollars for one year, or a proportionate part thereof for
36 shorter periods, should such license not be granted at the begin-
37 ning of the fiscal year, payable and collectible as are other license
38 taxes. No municipal corporation shall impose any license tax

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39 on any such boxing or sparring club, notwithstanding the pro-
40 visions of any section of the code respecting municipal taxes and
41 licenses. The granting of such license to such club by the county
42 clerk, or the holding of such license by such club, individual or
43 association, shall not prevent the commission from cancelling or
44 revoking the license to conduct such club, as hereinbefore pro-
45 vided.

Sec. 6. All buildings or structures used or intended to be used
2 for the purpose of this act shall be properly ventilated and pro-
3 vided with fire exits and fire escapes, if there need be, and in all
4 manner conform to the laws, ordinances and regulations peer-
5 taining to buildings in the city, town or village where situated.
6 Where a part of a building or structure is used for the purpose
7 set forth in this section shall apply in the same manner.

Sec. 7. No boxing or sparring match or exhibition shall be
2 more than twelve rounds of three minutes each in length, with
3 intermissions of one minute each between rounds; and the con-
4 testants shall wear, during such contests, gloves weighing at least
5 six ounces.

Sec. 8. Any club, corporation or association which may con-
2 duct, hold or give or participate in any sham or fake boxing or
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3 sparring match or exhibition shall thereby forfeit its license is-
4 sued in accordance with the provisions of this act, which shall
5 thereupon be, by the commission, cancelled and declared void; and
6 it shall not therefor be entitled to receive another such license or
7 any license pursuant to the provisions of this act, nor shall any

8 license thereafter be granted to any club, corporation or associ-
9 ation including among its members, directors, partners or stock-
10 holders any member, director, partner or stockholder of the club,
11 corporation or association whose license has been so forfeited.

12 Any contestant who shall participate in any sham or fake boxing
13 or sparring match or exhibition, and any other person whatso-
14 ever who shall in any manner be connected with the arranging,
15 planning, holding, conducting or giving any such sham or fake
16 boxing or sparring match or exhibition, shall be guilty of a mis-
17 demeanor, and shall, upon conviction thereof, be fined not less
18 than five hundred dollars nor more than one thousand dollars
19 and be confined in jail for a period of not less than six months nor
20 more than one year; and any contestant so participating shall be
21 further totally disqualified from further admission or participa-
22 tion in any boxing contest held or given by any club, corporation
23 or association duly licensed for said purposes.

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Sec. 9. Every club, corporation or association which may hold
2 or exercise any of the privileges conferred by this act shall, within
3 twenty-four hours after the determination of every contest, fur-
4 nish to the commission a written report, duly verified by one of its
5 officers, showing the number of tickets sold for such contest and
6 the amount of the gross proceeds thereof and such other matters
7 as the commission may prescribe, and shall also, within the said
8 time pay to the secretary of the commission a tax of five per
9 centum of its total gross receipts from the sale of tickets of ad-
10 mission to such boxing or sparring match or exhibition.

11 Before any license shall be granted to any club, corporation or
12 association to conduct, hold or give any boxing or sparring match
13 or exhibition, such applicant therefor shall exercise and file with
14 the commission a bond in the sum of ten thousand dollars to be
15 approved as to form and the sufficiency of the authorities thereon by
16 the said commission, conditioned for the payment of the tax here-
17 by imposed.

Sec. 10. Whenever any such club, corporation or association
2 shall fail to make a report of any contest at the time prescribed
3 by this act, or whenever such report is unsatisfactory to the com-
4 mission, the commission or any member thereof may examine or
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5 cause to be examined the books and records of such club, corpo-
6 ration or association, and subpoena and examine under oath its

7 officers and other persons as witnesses for the purpose of determin-
8 ing the total amount of its gross receipts for any contest and the
9 amount of tax due in pursuance of the provisions of this act, and
10 upon such examination and as a result thereof the commission
11 may fix and determine the tax. In case of the default in the pay-
12 ment of any tax so ascertained to be due, together with the ex-
13 penses incurred in making such examination, for a period of
14 twenty days notice to such delinquent club, corporation or associ-
15 ation of the amount at which the same may be fixed by the said
16 commission, such delinquent club shall, *ipso facto*, forfeit its
17 license; and it shall be thereby disqualified from receiving any
18 new license or any renewal of license; and it shall, in addition,
19 forfeit and pay the sum of five hundred dollars, which may be
20 recovered by the said commission by suit in any circuit court of
21 the state.

Sec. 11. Each member of the commission shall have the
2 privilege of being present at all exhibitions and matches without
3 charge therefor, and shall, when present, see that the rules are
4 strictly observed, and may be present at the counting of the gross
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5 receipts; and in the event that no member of the commission can
6 be present, the commission may appoint an inspector to be pres-
7 ent representing said commission, which inspector shall have the
8 same privilege hereby conferred upon a member of the com-
9 mission; and said inspector shall immediately mail to the com-
10 mission the official box office statement received by him from the
11 officers of the club.

Sec. 12. The chief official of the boxing match or exhibition
2 shall be the referee. The referee shall be appointed by the com-
3 mission, and shall receive from the commission a card authorizing
4 him to act as such referee, and no club shall employ or permit any
5 one to act as referee except one holding such card of authorization
6 from the commission. The referee shall have general super-
7 vision and control over the match or exhibition, and shall take
8 his position within the ring.

Sec. 13. In any boxing or sparring match or exhibition, each
2 contestant must be examined prior to entering the ring by a phy-
3 sician who has been in active practice in the state of West Virginia
4 for not less than five years. The physician shall certify in writing
5 over his signature, as to contestant's physical condition to en-
6 gage in such contest. And said physician shall be in attendance

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7 during the contest, prepared to deal with any emergency which
8 may arise. Said physician shall file such report of examination
9 with the commission within the period of twenty-four hours after
10 the contest. But in the event that said physician is convinced of
11 the unfitness of either of the contestants to enter the contest he
12 shall at once certify such opinion to the club, corporation or asso-
13 ciation under whose management the contest is conducted, and it
14 shall thereupon be unlawful for said club, corporation or associ-
15 ation to proceed with such contest.

Sec. 14. No boxer shall be permitted to contest against an op-
2 ponent ten pounds heavier than himself when the weight of other
3 contestant is less than one hundred and fifty pounds.

Sec. 15. All persons attending a boxing or sparring match or
2 exhibition shall behave in a gentlemanly and sportmanlike man-
3 ner. Any person guilty of disorder when in attendance at any
4 such exhibition shall be guilty of a misdemeanor and shall, upon
5 conviction thereof before any justice of the county in which the
6 offense was committed be fined not less than fifty dollars nor
7 more than one hundred dollars.

Sec. 16. No boxer, referee or second shall be permitted to
2 take part in any boxing contest, unless holding a license from the

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3 state, said license to be issued by the commission for one year or
4 proportion thereof, dating from July first to June thirty-first
5 upon the payment of ten dollars, said license to be revoked upon
6 conviction of violation of this act.

Sec. 17. It shall be unlawful for any person attending a boxing
2 or sparring match or exhibition to carry with him into the place
3 where such boxing or sparring match or exhibition is held, any
4 intoxicating liquor, and it shall further be unlawful for any club,
5 corporation or association to permit or allow any intoxicating
6 liquor to be carried upon its premises on the day or night of any
7 contest, or to permit any person under the influence of liquor to
8 attend any such boxing or sparring match or exhibition.

Sec. 18. If any person who shall engage in a boxing contest
2 with another person for money or other such things of value, or
3 for any championship, or to see which, any admission fee is
4 charged, either directly or indirectly in this state, except when
5 such boxing contest is held in compliance with this statute, shall
6 be deemed guilty of a felony, and upon conviction shall be fined

7 not more than one thousand dollars, or be imprisoned in the
8 county jail for a period of one year.

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Sec. 19. If any person shall violate any provision of this act,
2 for such violation a penalty is not here expressly provided, he
3 shall be guilty of a misdemeanor, and upon conviction thereof
4 shall be fined not less than fifty dollars nor more than five hun-
5 dred dollars, and may, at the discretion of the court, in addition
6 thereto, be confined in jail for not less than six months nor more
7 than two years.

Sec. 20. Nothing in this act contained shall be construed to
2 render unlawful a boxing or sparring contest in any gymnasium,
3 athletic club, Young Men's Christian Association or the American
4 Legion or the like, when such boxing or sparring contest is not for
5 money or other thing of value and no admission is charged to see
6 same.

Sec. 21. That section twenty-seven-a of chapter one hundred
2 and forty-four of the code of West Virginia and all other acts and
3 parts of acts inconsistent with this act be and the same are hereby
4 repealed.

House Bill No. 69

(By MR. CULLEN)

[Introduced January 17, 1921; referred to the Committee on the
Judiciary.]

Senate Bill No. 23

(By MR. McCLAREN)

[Introduced January 17, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 69

A BILL to amend and re-enact section seven, of chapter one hundred
forty-eight, of Barnes' code of West Virginia.

Be it enacted by the Legislature of West Virginia:

That section seven, of chapter one hundred forty-eight, of Barnes' code of West Virginia, be amended and re-enacted to read as follows:

Section 7. If any person without a state license therefor, carry
2 about his person, or in any grip, suitcase, handbag or other con-
3 tainer in his possession, or in any automobile or motor vehicle of
4 which he is the owner, or has charge thereof, any revolver or other
5 pistol, or razor, or if any person carry about his person or in any
6 grip, suitcase, handbag or other container in his possession, or in
7 any automobile or other motor vehicle of which he has charge, or
8 is the owner thereof, any dirk, bowie knife, slung-shot, billy,
9 metallic or other false knuckles, or any other dangerous or dealy
10 weapon of like kind and character, he shall be guilty of a misde-
11 meanor, and upon conviction thereof, shall be confined in the
12 county jail for a period of not less than six nor more than twelve
13 months for the first offense; but upon conviction of the same
14 person for the second offense in the state, he shall be guilty of a

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15 felony and be confined in the penitentiary not less than one nor
16 more than five years, and in either case, fined not less than fifty
17 nor more than two hundred dollars, at the discretion of the court;
18 and it shall be the duty of the prosecuting attorney in all cases
19 to ascertain whether or not the charge made by the grand jury
20 is the first or second offense, and if it shall be the second offense,
21 it shall be so stated in the indictment returned, and the prosecut-
22 ing attorney shall introduce the record evidence before the trial
23 court of said second offense, and shall not be permitted to use his
24 discretion in charging said second offense nor in introducing evi-
25 dence to prove the same on the trial; *provided*, that boys under
26 the age of eighteen years, upon the second conviction, may at the
27 discretion of the court, be sent to the reform school of the state,
28 Any person may obtain a state license to carry any pistol or other
29 revolver, or razor, within any county in this state by publishing
30 a notice in some newspaper published in the county in which he
31 resides, setting forth his name, residence and occupation, and
32 that on a certain day he will apply to the criminal or interme-
33 diate court of his county, and if there be no criminal or interme-
34 diate court, to the circuit court, for such state license, and after
35 the publication of such notice for at least ten days before said

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36 application is made, and at the time stated in said notice, upon
37 application to said court, it may grant such person a license in
38 the following manner, to-wit:

39 (1) Such person must prove to the said court that he is
40 over twenty-one years of age; that he is a person of good moral
41 character, of temperate habits, and is not addicted to intoxica-
42 tion, and has not been convicted of a felony nor of any other of-
43 fense involving the use on his part in an unlawful manner of any
44 such weapon.

45 (2) He shall file with said court an application stating the
46 purpose or purposes for which he desires to carry any such
47 weapon, and shall show in such application, and prove to the
48 court, good reason and cause for carrying such weapon. There-
49 upon, if such court be satisfied from the proof that there is good
50 reason and cause for such person to carry a pistol or other re-
51 volver, or razor, and all of the other conditions of this act be
52 complied with, said court may grant said license, but before said
53 license shall be effective, such person shall pay to the sheriff
54 and the court shall so certify in its order granting the license, the
55 sum of twenty dollars, and shall also file a bond with the clerk of
56 said court in the penalty of three thousand five hundred dollars,

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57 with good security, signed by a responsible person or persons, or
58 by some surety company, authorized to do business in this state,
59 conditioned that such applicant will not carry such weapon ex-
60 cept in accordance with his said application and as authorized
61 by the court and that he will pay all costs and damages accruing
62 to any one by the accidental discharge or improper, negligent or
63 illegal discharge or use of said pistol. Any such license shall
64 be good for one year unless sooner revoked, and be co-extensive
65 with the state, and all licenses collected hereunder shall be ac-
66 counted for to the auditor and paid over by the sheriffs as other
67 license taxes are collected and paid, and the state tax commis-
68 sioner shall prepare all suitable forms for licenses and bonds
69 and certificate showing that such license has been granted, and do
70 anything else in the premises to protect the state and to see to
71 the enforcement of this act.

72 *Provided*, that nothing herein shall prevent any person from
73 carrying in good faith and not for felonious purposes upon his
74 own premises, nor shall anything herein prevent a person from
75 carrying any pistol or other revolver (provided the same is un-

76 loaded), or razor, from the place of purchase, to his home, or
77 place of residence, or to a place of repair and back to his home
78 or residence; and, *provided, further*, that in cases of riot, public
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79 danger and emergency, a justice of the peace or other person is-
80 suing a warrant, may authorize a special constable and his
81 posse to carry weapons for the purpose of executing a process,
82 and a sheriff in such cases may authorize a deputy or posse to
83 carry weapons, but the justice shall write on his docket the
84 causes and reasons for such authority and the person so author-
85 ized, and index the same, and the sheriff or other officer shall
86 write out and file with the clerk of the county court the reasons
87 and causes for such authority and the person so authorized, and
88 the same shall always be open to public inspection, and such au-
89 thority shall authorize such special constable, deputies and posses
90 to carry weapons in good faith only for the specific purposes and
91 times named in such authority, and upon the trial of every in-
92 dictment the jury shall inquire into the good faith of the person
93 attempting to defend any such indictment under the authority
94 granted by any such justice, sheriff or other officer, and any
95 such persons so authorized shall be personally liable for the in-
96 jury caused any one by the negligent or unlawful use of any
97 such weapon. It shall be the duty of all ministerial officers;
98 consisting of the justices of the peace, notaries public and other
99 conservators of the peace of this state, to report to the prosecu-

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100 ing attorney of the county the names of all persons guilty of vi-
101 oating this section, and any person wilfully failing so to do, shall
102 be guilty of a misdemeanor and shall be fined not exceeding two
103 hundred dollars, and shall, moreover, be liable to removal from
104 office for such wilful failure; and it shall likewise be the duty
105 of every person having knowledge of the violation of this act to re-
106 port the same to the prosecuting attorney, and to freely and
107 fully give evidence concerning the same, and any one failing so to
108 do, shall be guilty of a misdemeanor and upon conviction thereof
109 shall be fined not exceeding one hundred dollars; *provided, fur-*
110 *ther*, that nothing herein contained shall be so construed as to
111 prohibit regularly elected sheriffs, their regularly appointed dep-
112 uties, who collect taxes in each county, and all regularly elected
113 constables in their respective counties and districts, and all regu-
114 larly appointed police officers of their respective cities, towns or

115 villages, from carrying such weapons as they are now authorized
116 by law to carry, who shall have given bond in the penalty of not
117 less than thirty-five hundred dollars, conditioned for the faithful
118 performance of their respective duties, which said officers shall be
119 liable upon their said official bond, for the damages done by the
120 unlawful or careless use of any such weapon, whether such bond
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121 is so conditioned or not. Justices of the peace shall not have
122 jurisdiction to try offences under this section.

123 If any person authorized by this section to carry a pistol shall
124 needlessly or unnecessarily display such pistol in a playful or
125 other manner on the public highways, or in public places, his li-
126 cense shall be revoked by the court granting same.

127 All other acts or parts of acts inconsistent with this act are
128 hereby repealed.

House Bill No. 179

(BY MR. WYSONG.)

[Introduced January 19, 1921; referred to the Committee on Counties, Districts and Municipal Corporations.]

A BILL to amend and re-enact the act of the legislature of West Virginia, passed on the sixth day of February, one thousand nine hundred and seventeen, relating to the amendment of the charter of the city of Princeton, in the county of Mercer.

Be it enacted by the Legislature of West Virginia:

That the charter of the city of Princeton, in the county of Mercer, as amended and re-enacted by an act of the legislature of West Virginia, passed on the sixth day of February, one thousand nine hundred and seventeen, be and the same is hereby amended and re-enacted so as to read as follows:

Section 1. That the inhabitants of so much of the county of
2 Mercer, in the state of West Virginia, included in the boundaries
3 described in section two of this act, he and they are hereby to
4 remain and continue a municipal corporation by the name of "The
5 City of Princeton" by which name they shall have perpetual suc-
6 cession and a common seal, and by which name they may sue and
7 be sued, plead and be impleaded, contract and be contracted with,

8 purchase and otherwise acquire and hold real estate and personal
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9 property needed in the discharge of the functions of government
10 conferred by this charter.

Corporate Limits.

Sec. 2. The corporate limits of the city of Princeton shall be
2 as follows, that is to say: Beginning at the bridge where the
3 Raleigh and Kanawha turnpike crosses Gladys fork, and running
4 thence down Gladys fork to Brush creek; thence down Brush
5 creek to the mouth of Board Camp branch; thence due east, cross-
6 ing the center line of the Deepwater railroad, as shown by the
7 map and profile of the location of said road filed in the office of the
8 clerk of the county court of Mercer county, West Virginia, on
9 the twenty-third day of March, one thousand nine hundred and
10 four, to a point fifty feet beyond the said center line at right
11 angles thereto; thence parallel to the center line of the location
12 of said railroad as shown upon said map, and fifty feet distant
13 therefrom to Christian's fork, which is a point eastward from
14 the residence of William Oliver; thence eastwardly to the Carr and
15 Brattle cattle scales on the old Pisgah road and including the
16 said scales; thence northwesterly, in a straight line, to two large
17 and old willow trees by an abandoned spring by the side of an
18 old house-seat in an old apple orchard, which point is up a hollow
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19 in an eastern direction from the northern end of the present
20 Virginian Railway shops; thence, a straight line, in a southwest
21 ern direction, to the residence formerly owned by Elliott Blank-
22 enship on the Low Gap road, including the said residence within
23 the corporate limits; thence, a straight line, including the said
24 former residence of said Blankenship within the corporate limits
25 as aforesaid, touching the residence of the late Sanders Lewis,
26 and including the same within the corporation, to a point in the
27 center line of the Raleigh and Kanawha turnpike road; thence a
28 straight line touching the residence of I. W. Walker, now owned
29 by W. B. Honaker, and including the same within the corporate
30 limits, to Gladys fork; thence down Gladys fork to the point of be-
31 ginning.

Wards.

Sec. 3. Wards and ward lines are hereby abolished.

Creation of Powers of Council.

Sec. 4. There is hereby created a council, and all the corporate

2 powers and functions pertaining to said city shall be exercised
3 by its council or under its authority, in the corporate name of said
4 city, unless otherwise provided by state laws.

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Composition of Council.

'Sec. 5. The council shall consist of five members who shall
2 be elected on a general ticket at large and shall serve for a term
3 of four years from the first day of July next following the date
4 of their election and until their successors shall have been duly
5 elected and qualified; *provided, however,* that at the first elec-
6 tion hereunder, the three candidates having the highest number of
7 votes shall serve for four years and the two candidates having the
8 next highest number of votes shall serve for two years. The
9 council shall be a continuing body, and no measure pending be-
10 for such body shall abate or be discontinued by reason of the ex-
11 piration of the term of office of the members of said body or any
12 of them.

Eligibility of Officers and Conduct of Candidates.

, Sec. 6. No person shall be eligible to the office of council-
2 man, unless at the time of his election he is legally entitled to
3 vote in the city election; and he was for the year preceding assessed
4 with taxes upon real estate or personal property within the said
5 city, of the assessed aggregate value of at least five hundred dol-
6 lars, and shall actually have paid the taxes so assessed; and no
7 candidate for the office of councilman shall promise any money,
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8 office, employment or other thing of value to secure a nomination
9 or election or expend in connection with his candidacy any money
10 except as permitted by the general election laws of the state; and
11 any such candidate violating this provision shall be guilty of a
12 misdemeanor and upon conviction thereof shall be punished by a
13 fine not exceeding two hundred dollars or imprisoned for a term
14 not exceeding two months or both, and shall forfeit his office, if
15 elected; in which event the person receiving the next highest
16 number of votes who has not violated the said provision shall be
17 entitled to said office.

Vacancies.

Sec. 7. Any vacancies in the council, except otherwise provided
2 in this charter, shall be filled by the remaining members.

Compensation of Councilmen.

Sec. 8. Each member of the council shall receive, subject to

2 the provision of this charter, a salary of one hundred dollars per
3 year, such salaries to be payable in equal quarterly installments.

Officers Elective by Council: Rules.

Sec. 9. The council shall elect one of its members as chairman,
2 who shall be entitled president of the council; and shall also elect
3 a city manager, a city treasurer, police judge, a city assessor, a

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4 city assessor, a city recorder, a chief of police and any additional
5 police officers necessary, a city attorney, chief of fire department
6 and all other officers whose offices may be established by ordinance
7 of the city council or by this act, and such officers shall hold the
8 respective offices to which they are appointed during the pleasure
9 of the council and until their successors are appointed and quali-
10 fied; *provided, however*, the offices of treasurer and police judge
11 shall be held by the same person, and *provided further*, that the
12 offices of assessor and recorder shall be held by the same person.
13 All elections by the council shall be *viva voce* and the vote record-
14 ed in the minute book of the council. The council may determine
15 its own rules of procedure; may punish its members for mis-
16 conduct, and may compel the attendance of members in such
17 manner and under such penalties as may be provided by ordinance.
18 It shall keep the minutes of its proceedings. A majority of all
19 the members of the council shall constitute a quorum to do busi-
20 ness, but a smaller number may adjourn from time to time.

21 No person elected to the council, whether he qualify or not,
22 shall, during the term for which he was elected, be elected or
23 appointed to any position or office of trust or profit under the
24 city government.

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25 All officers shall receive such compensation as the council may
26 prescribe by ordinance or order, unless said compensation be fixed
27 by this act.

Meeting of Council.

Sec. 10. At 8 o'clock P. M., on the first day of July next
2 following the regular municipal election, or if such day be on
3 Sunday, then on the day following, the council shall meet at the
4 usual place for holding council meetings of the city, at which
5 time the newly elected councilmen shall assume the duties of
6 their office. Thereafter the council shall meet at such times as
7 may be prescribed by ordinance or resolution; *provided*, that it
8 shall hold at least one regular meeting each month. The presi-

9 dent of the council, any member thereof, or the city manager,
10 may call special meetings of the council at any time, upon at
11 least twelve hours written notice to each member, served person-
12 ally, or left at his usual place of business or residence; or such
13 meeting may be held at any time without notice, provided all mem-
14 bers of the council attend. All meetings of the council shall
15 be public, and any citizen may have access to the minutes and
16 records thereof at all reasonable times.

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Penalty for Absence.

Sec. 11. For each absence of a councilman from a regular
2 meeting of the council, there shall be deducted from his pay, a
3 sum equal to five per cent of his annual salary. Absence from
4 three consecutive regular meetings shall operate to vacate the
5 seat of a member unless the absence is excused by the council by
6 resolution setting forth the reason thereof, and entered upon
7 the minutes of the council.

Emergency Measures.

Sec. 12. All ordinances and resolutions passed by the council
2 shall be in effect from and after thirty days from the date of that
3 passage, except that the council may, by the affirmative vote of
4 four of its members, pass emergency measures to take effect at
5 the time indicated therein. An emergency measure is an ordinance
6 or resolution for the immediate preservation of the public peace,
7 property, health or safety, or providing for the usual daily opera-
8 tion of a municipal department in which the emergency is set
9 forth and defined in a preamble thereto. Ordinances appropriat-
10 ing money for any such emergency may be passed as emergency
11 measures, but no measure providing for the sale or lease of
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12 city property, or making a grant, renewal or extension of a fran-
13 chise or other special privilege shall be so passed.

Record and Publication.

Sec. 13. Every ordinance or resolution upon its final passage
2 shall be recorded in a book kept for that purpose and shall be
3 authenticated by the signatures of the presiding officer and the
4 city recorder. Every ordinance of a general or permanent nature
5 shall be published in full once within ten days after its final
6 passage in a newspaper of general circulation, published in the
7 municipality; and where legally permissible, such publication
8 shall be made but once; *provided*, that the foregoing require-

9 ments as to publication shall not apply to ordinances reordained
10 in or by general complication or codification of ordinances print-
11 ed by authority of the council.

12 A record or entry made by the city recorder or a copy of such
13 record or entry duly certified by him shall be *prime facie* evi-
14 dence of the terms of the ordinance and its due publication.

15 All ordinances and resolutions of the council may be read in
16 evidence in all courts and in all other proceedings in which it
17 may be necessary to refer thereto, either from a copy thereof

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18 certified by the city recorder or from the volume of ordinances
19 printed by authority of the council.

President of the Council.

Sec. 14. The president of the council shall preside at meet-
2 ings of the council, and perform such other duties consistent with
3 his office as may be imposed by the council. He shall be en-
4 titled to a vote, but shall possess no veto power. He shall be
5 recognized as the official head of the city for all ceremonial
6 purposes, by the courts for the purpose of serving civil pro-
7 cess, and by the governor for military purposes. He may use the
8 title of mayor in any case in which the execution of contracts
9 or other legal instruments in writing, or other necessity arising
10 from the general laws of the state may so require; but this shall
11 not be construed as conferring upon him the administrative or
12 judicial functions, or other powers or functions of a mayor,
13 under the general laws of the state. In time of public danger
14 or emergency, he may, with the consent of the council, take com-
15 mand of the police and maintain order and enforce the laws. Dur-
16 ing his absence or disability, his duty shall be performed by
17 another member appointed by the council.

18 The powers and duties of the president of the council shall
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19 be such as are conferred upon him by this charter, together with
20 such others as may be conferred by the council in pursuance of
21 the provisions of this charter, and no others.

Nominations and Elections.

Time of Holding Municipal Election.

Sec. 15. A municipal election shall be held on the first Tues-
2 day in June of the year one thousand nine hundred and twenty-
3 one, and of every second year thereafter, which shall be known
4 as the regular municipal election for the election of councilmen.

5 Any matter which, by the terms of this charter, may be submitted
6 to the electors of the city, at any special election, may be sub-
7 mitted at a regular municipal election.

Nomination of Candidates.

Sec. 16. Candidates for the council under the provisions of
2 this charter shall be nominated only by petition. Subject to
3 the provisions of section six of this charter, any qualified voter
4 of the city may be nominated as provided herein. Subject to
5 the provisions of section seventeen and eighteen hereof, there
6 shall be printed in alphabetic order on the ballots to be used in
7 any municipal election for the election of councilmen, the names
8 of all candidates who have been nominated by petition as provided

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9 herein, and no others. A nominating petition shall conform
10 substantially to the following requirements:

11 (a) Such petition shall state the name and place of resi-
12 dence of each person whose name is presented for a place upon
13 the ballot, and shall request such person or persons to become a
14 candidate or candidates for the office of councilman for the city of
15 Princeton.

16 (b) Such petition shall be signed by at least two hundred
17 qualified electors of the city.

18 (c) Each elector signing a petition may subscribe to one
19 nomination for each of the places to be filled at the ensuing elec-
20 tion, and no more.

21 (d) Such petition shall not be signed by any elector more
22 than fifty days prior to the day of such election, and such peti-
23 tion shall be filed with the recorder of said city not less than
24 twenty days previous to the day of such election.

Acceptance.

Sec. 17. Any person whose name has been submitted for
2 candidacy by any such petition, shall file his written acceptance
3 of such candidacy with the recorder of said city at least fifteen
4 days previous to the date of such election, otherwise his name shall
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5 not appear on the ballot. The filing of such acceptance shall be
6 deemed equivalent to the filing of notice of candidacy under the
7 general election laws of the state, and no other notice of can-
8 didacy need be given by the person filing the same.

Ballots.

Sec. 18. The ballots used in all elections provided for in this

2 charter for the election of councilmen shall be without party
3 marks or designations.

4 There shall not be printed on any such ballot the name of any
5 person who shall be nominated, selected or designated for the
6 office of councilman by any primary election, convention or mass
7 meeting conducted or held under the auspices or authority of
8 any political party, faction or combination. The name of each
9 candidate shall be printed in a space defined by ruled lines and
10 with a blank square on its left, enclosed in dark lines, and the
11 voter shall make a cross mark in the blank space before the
12 name of each candidate for whom he desires to vote.

Method of Conducting Municipal Elections.

Sec. 19. The candidates at any regular municipal election
2 for the election of councilmen, equal in number to the place to

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3 be filled, who shall receive the highest number of votes at such
4 election shall be declared elected.

5 In any such election each elector shall be entitled to vote for
6 as many persons as there are vacancies to be filled, and no more;
7 and no elector shall in such election cast more than one vote for
8 the same person.

9 In counting the vote any ballot found to contain a greater
10 number of names voted for, for the office of councilman than the
11 number of vacancies in the council to be filled shall be void, but
12 no ballot shall be void for containing a less number of names voted
13 for than is permitted hereby.

14 In all elections by the people the mode of voting shall be by
15 ballot, but the voters shall be left free to vote an open, sealed or
16 secret ballot, as they may elect. Subject to the above pro-
17 visions, the elections in said city shall be held and conducted and
18 the result thereof certified, returned and finally determined un-
19 der the laws in force in this state relating to general elections,
20 except that the persons conducting said elections shall, on the
21 day after the election is held deliver the ballots, tally sheets
22 and poll books to the recorder, and thereafter the council of said
23 city shall meet within five days (Sunday's excepted) after said
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24 election and canvass the returns of said election and declare the
25 result thereof, and in all respects comply with the requirements
26 of the statute of the state relating to elections. The council of

27 said city shall perform all duties in relation to such elections
28 required by general law of the county court and officers in ef-
29 fect on the day of said election and each succeeding election
30 under this charter. And the provisions of the code in effect on
31 the date of said election, concerning elections by the people,
32 shall govern such elections and be applicable thereto, and the
33 penalties therein prescribed for offenses relating to elections
34 shall be enforced against offenders of such corporate elections;
35 and the said act shall have the same force and effect as if it
36 were specially applicable in such corporate elections, and was
37 by this act re-enacted *in extenso*; except as above modified as
38 to the time in which the returns of the elections and canvass
39 thereto shall be made.

Who Are Voters.

Sec. 20. Every male and female person residing in said city
2 shall be entitled to vote for all officers elected under this act;
3 but no person who is a minor, or of unsound mind, or a pauper
4 or who is under conviction of treason or bribery in an election, or
5 who has not been a resident of this state for one year, and of said
6 city for six months next preceding the election at which he desires
7 to vote, shall be permitted to vote therein.

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Registration of Voters.

Sec. 21. All qualified voters within the city of Princeton en-
2 titled to vote in the municipal election held therein shall be reg-
3 istered in like maner as are the qualified voters in state and
4 county elections, and the state laws of the state of West Virginia
5 in effect at the time of such registration shall in all things apply
6 thereto; except the fee for such registration shall be five cents for
7 each qualified voter so registered, and the powers conferred upon
8 the county court by the state laws in reference to the registration
9 of voters are hereby conferred upon the council of said city of
10 Princeton.

Tie Vote; How Decided.

Sec. 22. Whenever two or more persons receive an equal num-
2 ber of votes for councilman, such tie shall be decided by the
3 council in existence at the time the election is held; *provided*,
4 that the council in office at the time of the institution of such
5 contest proceeding shall hold over and remain in office for the
6 purpose of passing upon and deciding such contest, and for such
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7 purposes only; and nothing herein provided shall be construed
8 to interfere with the duties, power and authority of the new
9 or incoming council.

Contested Elections.

Sec. 23. All contested elections shall be heard and deter-
2 mined by the council in existence at the time the election is
3 held and the contest shall be made and conducted in the manner
4 as provided for in contests for county and district officers, and
5 the council by their proceedings in such cases shall, as nearly
6 as practicable, conform with like proceedings of the county court
7 in such cases.

Duties and Powers of Council.

Sec. 24. The council shall have authority to provide by
2 ordinance for the appointment of such other officers as shall be
3 necessary and proper, to carry into full force and authority the
4 power, capacity, jurisdiction and duties of said city, which are
5 or shall be vested therein or in the council or any other officer
6 or body of officers, thereof, and to grant to the officers so ap-
7 pointed the power necessary or proper for the purpose above men-
8 tioned. The council, by ordinance, shall define the duties of
9 the officers so appointed, and may provide them a reasonable sal-

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10 ary, which shall be payable out of the city treasury, and shall
11 require and take from all of them whose duty is shall be to
12 receive its funds, assets or property, or have charge of the same,
13 such bonds, obligations, or other writing as they shall deem
14 necessary or proper to insure the faithful performance of their
15 several duties.

16 The council of said city shall have power to lay off, vacate,
17 close, open, alter, grade, improve and keep in good repair the
18 roads and streets, alleys, pavements, sidewalks, cross-walks,
19 drains, sewers and gutters therein, for the use of the citizens
20 and the public, and to improve and light the same, and keep them
21 free from obstructions of every kind; to regulate the width and
22 kind of pavements and sidewalks, footways, drains and gutters,
23 and cause the same to be built and kept in good repair and order,
24 and free and clean by the owners and occupants of the real prop-
25 erty next adjacent thereto; to establish public parks and play
26 grounds, and to this end purchase and acquire necessary and ap-
27 propriate grounds and improve the same and regulate the use
28 thereof; to establish markets, prescribe the time for holding

29 the same, provide suitable and convenient buildings therefor, and
30 prevent the forestalling of said markets; to prevent injury or
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31 annoyance to the public or to individuals from anything dan-
32 gerous, offensive or unwholesome; to prohibit or regulate
33 slaughter houses, tan houses and soap factories within the city
34 limits, or the exercise of any unhealthful or offensive business,
35 trade or employment; to abate all nuisances within the city
36 limits, or to compel the abatement or removal thereof, at the
37 expense of the person causing the same, or by or at the expense
38 of the owner or occupant of the ground on which said nuisance is
39 placed or found; to cause to be filled up, raised or drained, by or
40 at the expense of the owner, any city lot or tract of land covered
41 or subject to be covered by stagnant water; to prevent horses,
42 hogs, cattle, sheep or other animals, and fowls of all kinds from
43 going or being at large in such city, and as one means of pre-
44 vention to provide for impounding or confining such animals
45 and fowls at the expense of the owner thereof, and upon the fail-
46 ure of the owner to reclaim, for the sale thereof; to protect
47 places of divine worship and to preserve order in and about the
48 premises when and where worship is held; to regulate the keeping
49 and sale of gunpowder, and other inflammable or dangerous sub-
50 stances; to regulate the manner of exhibiting for sale and the
51 selling of milk, meats and vegetables and to permit and regulate

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52 the building of houses, or other structures, and regulate the kind
53 of material to be used in the construction thereof, and to pro-
54 vide for the making and maintaining of division fences by the own-
55 ers of adjoining property, and for the proper drainage of city
56 lots and other parcels of land by or at the expense of the owner
57 or occupant thereof; to provide against danger or damage by fire;
58 to punish assault and battery; to prohibit the keeping or loiter-
59 ing in or visiting houses of ill-fame, or loitering in saloons or
60 upon the streets; to prevent lewd or lascivious conduct, the sale
61 or exhibition of indecent pictures or papers or other representa-
62 tions; to prevent adultery and fornication; to prohibit the
63 carrying of concealed or dangerous weapons within the corporate
64 limits of said city; to punish drunkenness; to punish larceny
65 where the amount stolen is less than twenty dollars; to prevent
66 gambling, and the keeping and using of slot machines and gam-
67 ing devices; to prohibit anything against good morals and com-

68 mon decency, and to fix punishment therefor; to prevent the
69 desecration of the Sabbath day, profane swearing; the illegal
70 sale of intoxicating drinks, mixtures or preparations; to protect
71 the person of those residing or being in said city; to appoint,
72 when necessary or advisable, a police force, permanent or tem-
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73 porary, to assist the chief of police in the discharge of his duty,
74 and who, when appointed, to have the same power and authority
75 in and about the arrest of offenders, as the chief of police may
76 have; to build or purchase, or lease a suitable place of imprison-
77 ment within said city, for the safe keeping or punishment of per-
78 sons charged with or convicted of a violation of the ordinances
79 of the city, or they may adopt the county jail of Mercer county
80 for the purpose; to erect or authorize or prohibit the erection of
81 gas, water works, or electric works or all of them within the
82 city limits, or near the same; to require any company or person
83 furnishing gas, electricity or water to said city for the inhabitants
84 thereof, to put in standard meters for the measurement thereof,
85 and may appoint any person to inspect the meters and remove
86 the same, if not standard and in good order; to prevent injury
87 to such works, or the pollution of any gas or water used or in-
88 tended to be used by the public or any individual; to require
89 the extension of gas, electric and water lines by such respective
90 companies, to any and all parts of the said city when the said
91 council may deem the same necessary; to provide for and regu-
92 late the weighing of hay, coal, and other articles sold or kept
93 within said city, and to establish rates and charges for the

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94 weighing and measuring thereof; to create by ordinance such
95 ordinance such committees and delegate such authority thereto
96 as may be necessary or advisable; to provide for the annual
97 assessment of taxable property therein, and for the revenue for
98 the city for municipal purposes, and to appropriate such revenue
99 to its expenses; and generally to have power to take such meas-
100 ures as are deemed necessary or advisable to protect person or
101 property, public or private, within the city; to preserve peace,
102 quiet and good order therein and to promote the health, safety,
103 comfort and well being of the inhabitants thereof; to organize
104 one or more fire companies and provide necessary apparatus,
105 tools, implements, engines, or any of them, for their use, and
106 in their discretion to organize a paid fire department; to make

107 regulations with respect to the erection and location of tele-
108 phone, telegraph, electric light or other poles of any individual
109 or corporation; to grant and regulate all franchises in, upon, over
110 and under the streets, alleys and public ways of said city, under
111 such restrictions, as shall be provided by ordinance; but no ex-
112 clusive franchise shall be granted by said council to any individ-
113 ual or corporation, nor shall any franchise be granted for a
114 longer period than fifty years; to regulate, license and restrict
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115 the use of motor buses, automobiles, carriages, drays and wagons,
116 upon the streets, alleys and public grounds of the said city.

117 The council shall have authority to pass all ordinances not
118 repugnant to the constitution and laws of the United States and
119 of this state, which shall be necessary and proper to carry into
120 full effect the power, authority, capacity and jurisdiction which
121 is or shall be granted to or vested in the said city, or in the
122 council or in any officer or body of officers of said city, and to
123 enforce any and all of the ordinances by reasonable fines and
124 penalties, and upon the failure to pay any fine or penalty im-
125 posed, may compel the offender to labor without compensation
126 at and upon any of the public works or improvements under-
127 taken, or to be undertaken, by said city, or to labor at any work
128 which the said council may lawfully employ labor upon, at such
129 reasonable rates per diem as the council may fix, until any fine,
130 or fines and cost upon any offender by said city have been fully
132 paid and discharged, after deducting reasonable charges for sup-
132 port while in the custody of the officers of the city, *provided*,
133 *however*, that no fine shall be imposed exceeding two hundred
134 dollars and costs, and that no person shall be imprisoned or com-
135 pelled to labor as aforesaid for more than six months for any

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136 one offense. And in all cases where a fine is imposed for an
137 amount exceeding ten dollars and costs, or a person be imprison-
138 ed, or be compelled to labor as aforesaid for a greater term than
139 ten days, an appeal may be taken from such decision upon the
140 terms and conditions as appeals are taken from the judgment of
141 a justice of this state. Such fines and penalties shall be im-
142 posed and recovered, and such imprisonment inflicted and en-
143 forced by and under the judgment of the police judge of said
144 city; or in case of his absence or inability to act, by the recorder
145 of said city; or in case of his absence or inability to act, then by

146 any member of the council, to be appointed by the council for
147 that purpose; and for his services in trying cases, whether
148 civil, criminal or infractious against ordinances, the police judge
149 shall be entitled to charge and collect such fees as are paid to
150 justices of the peace for similar services, which shall be paid into
151 the city treasury. And in all such cases the chief of police, or
152 other officer performing the service shall be entitled to receive
153 such fees as are paid to constables for similar services, which
154 shall be paid to the city treasury at the end of each month, taking
155 proper vouchers therefor; *provided, further*, that the fee for
156 making any arrest shall be one dollar, whether such officer be the
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157 chief of police or other officer. In addition to the powers above
158 enumerated, the said city council shall have power to build,
159 construct, maintain and operate a sufficient sewerage system
160 and water works, as may be necessary for the proper supply of
161 water to the inhabitants of the said city, for both public and
162 private use, and said city shall have the power to purchase or
163 condemn any water works now in the said city or hereafter
164 placed therein by any party other than said city, whenever the
165 council of said city shall deem proper, and such order shall have
166 been ratified by a vote of the qualified voters of said city, at an
167 election called for that purpose, with due notice, and at least
168 two-thirds of the votes cast at said election shall vote for the
169 ratification of said council to purchase or condemn said water
170 works; and the said city shall have the power to enlarge the
171 said water works, if so purchased or condemned, by putting addi-
172 tional reservoirs either within or out of said city; and the said
173 city shall have the right, if its council shall deem proper, and
174 the order of said council be ratified by a vote as aforesaid, to
175 build, construct, maintain, and operate such water works in the
176 city as may be deemed proper without the purchase or acquisi-
177 tion of any water works then in said city and said city shall

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178 have the right to lay pipes and mains for the proper distribu-
179 tion of said water, either in or out of said city, as shall be
180 necessary for the proper distribution of same, and for that pur-
181 pose may acquire by lease, purchase or condemnation all such
182 lands as shall be necessary, either within or without the said city,
183 or they may contract for such work to be done, in either event to
184 supply an adequate supply of pure, healthful water for said city,

185 and do all things necessary to supply the said city and the in-
186 habitants thereof with water as aforesaid; and the said city may
187 acquire by purchase or condemnation any electric light plant
188 now in said city or hereafter placed therein by any party other
189 than said city, and shall have the right to build, construct, main-
190 tain and operate such plant for furnishing electricity for said
191 city, and for the inhabitants thereof, but no electric light plant
192 shall be purchased, condemned, or built or operated unless voted
193 on by the qualified voters of said city at an election called and
194 held as aforesaid, and the same be ratified by a two-third vote
195 of all votes cast at said election. Whenever anything for which
196 a state license is required is to be done in said city, the coun-
197 cil may require a city license therefor and may impose a tax
198 thereon, for the use of said city.

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City Manager—Appointment.

Sec. 25. The city manager shall be the administrative head of
2 the municipal government under the direction and supervision
3 of the city council, and he shall hold office at the pleasure of the
4 city council. He shall be appointed without regard to his
5 political beliefs and need not be a resident of the city at the
6 time of his appointment. During the absence or disability of the
7 city manager, the city council may designate some properly quali-
8 fied person to execute the functions of the office.

Powers and Duties.

Sec. 26. The powers and duties of the city manager shall be:
2 (a) To see that the laws and ordinances are enforced.
3 (b) To exercise control over all departments created herein
4 or that hereafter may be created by the council.
5 (c) To see that all terms and conditions imposed in favor
6 of the city or its inhabitants in any public utility franchise are
7 faithfully kept and performed; and upon knowledge of any vio-
8 lation thereof to call the same to the attention of the city attorney,
9 who is hereby required to take such steps as are necessary to en-
10 force the same.

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11 (d) To attend all meetings of the council with the right to
12 take part in the discussions, but having no vote.
13 (e) To recommend to the council for adoption such measures
14 as he may deem necessary or expedient.
15 (f) To act as budget commissioner and to keep the city coun-

16 cil fully advised as to the financial condition and needs of the
17 city; and

18 (g) To perform such other duties as may be prescribed by this
19 charter or be required of him by ordinance or resolution of the
20 council.

Chief of Police.

Sec. 27. The chief of police shall have all power, rights and
2 privileges within the corporate limits of said city in regard to the
3 arrest of persons, the collection of claims and the execution and
4 return of process that can be legally exercised by a constable of a
5 district within the state; and may without having any warrant
6 or other process therefor, arrest any person who commits any of-
7 fense against such laws of this state or infraction of the ordinances
8 of said city in his presence. He shall be *ex-officio* the keeper of
9 the city jail and have charge of the city prisoners confined therein,
10 and may confine any person arrested by him in the city jail until
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11 such time as the charge against such person can be inquired into
12 by the police judge. Any person fined by the police judge, for
13 infraction of any of the ordinances of the city may pay such fine
14 to either the police judge, recorder or the chief of police; and the
15 said chief of police and his sureties shall be liable for all fines,
16 penalties and forfeitures that a constable of a district is liable for
17 in the same court that the said fine, penalties and forfeitures are
18 now recovered against a district constable.

Treasurer.

Sec. 28. It shall be the duty of the treasurer to collect the city
2 taxes, licenses, levies, assessments and other such city claims as
3 are placed in his hands for collection by the council, and he may
4 distrain and sell for state taxes; and he shall, in all other respects,
5 have the same powers, as a sheriff to enforce the payment and
6 collection thereof.

Police Judge.

Sec. 29. The police judge shall be a conservator of the peace
2 within the said city. He shall see that the orders, by-laws,
3 ordinances, acts and resolutions of the council are faithfully
4 executed. He shall be *ex-officio* justice of the peace within the said
5 city and shall, within the same, have, possess and exercise all the

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6 powers and perform all the duties vested by law in a justice of
7 the peace, except he shall have no jurisdiction in civil causes of

8 action arising out of the corporate limits of the city, unless the
9 defendant resides or is found therein and process therein served
10 upon him. He shall have the same power to issue attachments
11 in civil suits as a justice of the peace of his county has; but, in
12 such case, he shall have no power to try the same, but such at-
13 tachments shall be made returnable and heard before a justice of
14 the peace of his county. Any warrant issued by him, or other
15 process, may be executed at any place in said county. He shall
16 have control of the police of said city and may appoint special
17 police officers, whenever he may deem it necessary, and may sus-
18 pend any police officer of the city until the next regular meeting
19 of the council. And it shall be his duty especially to see that
20 the peace and good order of the city are preserved, and that per-
21 sons and property therein are protected, and to this end he may
22 arrest or cause the arrest and detention of all violators of the
23 laws of this state and ordinances of the city, before issuing his
24 warrant therefor, if the offense is committed in his presence. He
25 shall have power to issue his warrant for the arrest and apprehen-
26 sion of all persons violating the ordinances of the city, and shall
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27 have power to try the same and impose upon such violators of the
28 ordinances of said city such fines and penalties as are prescribed
29 by the ordinances thereof. He shall have the power to issue exe-
30 cutions for all fines, penalties and costs imposed by him, or he
31 may require the immediate payment thereof, and in default of
32 such payment, he may commit the party in default to the jail of
33 said county, or other place of imprisonment used by such cor-
34 poration, if there be one, until the fine or penalty and the costs
35 be paid; but the imprisonment in such cases shall not exceed sixty
36 days. And in all cases where a person is sentenced to imprison-
37 ment or to the payment of a fine of ten dollars or more, (and in
38 no case shall a judgment for a fine for less than ten dollars if the
39-48 defendant, his agent or attorney object to a less fine being im-
49 posed) such person shall be allowed an appeal from such decision
50 to the criminal court of the county of Mercer, upon the execu-
51 tion of an appeal bond with security deemed sufficient by said
52 police judge to cover the fine and costs, and the cost in the
53 criminal court in case said judgment be affirmed, with condition
54 that the person proposing to appeal will perform and satisfy any
55 judgment which may be rendered against him by the criminal
56 court on such appeal. If such appeal be taken, the warrant of

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57 arrest, if any, a transcript of the judgment, the appeal bond and
58 other papers in the case shall be forthwith delivered by the said
59 police judge to the clerk of said court, and the said court shall
60 proceed to try the case as upon an indictment or presentment and
61 render such judgment, including costs, as the law and evidence
62 may require. The expense of maintaining any person committed
63 to jail as hereinbefore set forth by the police judge, except it be
64 to answer an indictment, shall be paid by the said city and taxed
65 as costs against the defendant. He shall from time to time
66 recommend to the council such measures as he may deem useful
67 and needful for the welfare of the city. All fees which he would
68 be entitled to recover and retain in cases tried by him, shall be
69 charged and recovered by him and paid into the city treasury
70 at the end of each month for the use and benefit of the city;
71 and a statement thereof showing such money deposited in the
72 treasury shall be exhibited by the recorder to the council of said
73 city at its next succeeding meeting, at which time he shall be
74 charged on the minute book, or such other proper book as shows
75 his account, with the amount of such fees and costs so paid into
76 the city treasury.

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Recorder.

Sec. 30. The recorder shall keep an accurate record of all the
2 proceedings of the council, and shall have charge of and preserve
3 the records of the city. In case of the absence of the police judge
4 from the city, or his inability from any cause to act, or during
5 any vacancy in the office of police judge, the recorder shall per-
6 form such duties of the police judge as pertain to the office of
7 police judge, and to that end, in addition to the other powers
8 herein conferred upon him, the recorder is hereby vested with all
9 the powers necessary for the performance of the duties of the
10 police judge, while acting as such, including the authority of the
11 police judge pertaining to civil suits. The recorder shall be ex-
12 officio assessor of said city, and shall perform such duties as such
13 as are imposed by law. He shall be paid a salary of four hundred
14 dollars per year, payable in equal monthly installments, for his
15 services as such recorder and assessor, to be paid out of the city
treasury.

Assessor and Annual Assessments.

Sec. 31. It shall be the duty of the assessor to make an assess-

2 ment of the property within the city subject to taxation substan-
3 tially in the manner and form in which assessments are made by

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4 the assessor of the county, and return the same to the council on
5 or before the first day of June of each year, and for this purpose
6 he shall have all the powers conferred by law upon county assessors.
7 He shall list the number of dogs and other animals subject to
8 license tax in the city, and the names of persons owning the same,
9 which list shall be returned to the council at the same time his
10 assessment books are returned. But in making his assessment on
11 real and personal property he shall be governed by the assessment
12 on real and personal property for state and county purposes for
13 said year, and the value placed on said property shall not exceed
14 the value of such assessment for county and state purposes. In
15 order to aid the assessor in ascertaining the property subject to
16 taxation by said city, he shall have access to all books and public
17 records of said Mercer county, without expense to him or said city,
18 and he shall have the same power and be subject to the same pen-
19 alties in ascertaining and assessing the property and subjects of
20 taxation in said city, as are granted and imposed on the county
21 assessors throughout the state by general law; and the council
22 shall have authority to prescribe by general ordinance, such other
23 rules and regulations as may be necessary to enable and require
24 such treasurer to ascertain and properly assess all property liable
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25 to be taxed by said city, so that such assessment and taxation shall
26 be uniform and equal, and the council may enforce such rules and
27 regulations by reasonable fines to be imposed on any one failing
28 to comply therewith. When he shall complete his assessment book
29 he shall deliver the same when sworn to, to the city council.

City Attorney.

Sec. 32. The city attorney shall be the legal adviser of the
2 city and all of its officers in all matters arising, and in which
3 legal proceedings may be taken; he shall prosecute all suits,
4 actions and proceedings instituted on behalf of said city, and
5 defend all suits and actions against said city, and when requested
6 in writing shall give his written opinion to the council or any
7 standing committee thereto upon such legal questions as may
8 be referred to him affecting the city's interest; he shall perform
9 such other duties as may be required. It shall be his duty to
10 attend the sessions of the council when requested and prosecute

11 all trials before said police judge and all appeals that are taken
12 from such police judge to the criminal or circuit court, and for
13 his services he shall receive such compensation as the council
14 shall provide, and in addition thereto in all criminal prosecutions
15 conducted by said city attorney, where there is a conviction of the

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16 defendant, there shall be taxed an attorney's fee in favor of said
17 city attorney, not less than five nor more than ten dollars, which
18 said fee shall be taxed as a part of the costs of the case.

Bonds.

Sec. 33. All bonds, obligations or other writings taken in
2 pursuance of any provision of this act or under the provisions
3 of any order of said city, shall be made payable to "The City
4 of Princeton," and the obligors therein and their heirs, exec-
5 utors, administrators and assigns bound thereby shall be subject
6 to the same proceedings on such bonds, obligations, or writings for
7 enforcing the conditions of the terms thereof, by motion or other-
8 wise, before any court of record or justice of the peace having
9 jurisdiction thereof, held or acting in or for said Mercer county,
10 or any district thereof or elsewhere, that the sheriff or collector
11 of said county and his sureties are or shall be subject to on his
12 bond taken for the enforcement of the duties in the payment of
13 the county levy.

Oaths of Office.

Sec. 34. The police judge, recorder and councilmen, and all
2 other officers provided for in this act, shall each, before entering
3 upon the duties of their offices, and within fifteen days after
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4 receiving their certificates of election or appointment, take the
5 oath or affirmation prescribed by law for all officers in this state,
6 and make oath or affirmation that they will truly, faithfully and
7 impartially to the best of their ability, discharge the duties of
8 their respective offices so long as they continue therein. Said oath
9 or affirmation may be taken before any person authorized to ad-
10 minister oaths under the laws in force at the time the same is
11 taken, or before the police judge or recorder of said city; but in
12 any event a copy of said oath of said officer shall be filed with
13 the recorder.

Ineligibility or Failure to Qualify.

Sec. 35. If any person elected to any office shall not be eligible
2 thereto under the provisions of this act, or shall fail to qualify as

3 herein required, the council shall declare his said office vacant
4 and proceed to fill the vacancy as required by this act.

Record of Minutes and Ordinances.

Sec. 36. The council shall cause to be kept by the recorder
2 in a well bound book to be called the "minute book," an accurate
3 record of all its proceedings, ordinances, acts, orders and reso-
4 lutions, and in another to be called "ordinance book," accurate
5 copies of all general ordinances adopted by the council; both of

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6 which shall be accurately indexed and open to the inspection of
7 any one required to pay taxes in the city, or who may be other-
8 wise interested therein. All oaths and bonds of officers in the
9 city, and all papers of the council shall be endorsed, filed and
10 securely kept by the recorder. The bonds of officers shall be
11 recorded in a well bound book to be called "record of bonds."
12 The recorder shall perform such other duties as by ordinance of
13 the council may be prescribed. The transcript of ordinances, acts,
14 orders and resolutions certified by the recorder under the seal
15 of the city shall be admissible in evidence in any court, or before
16 any justice.

Reading of Minutes.

Sec. 37. At each meeting of the council the proceedings of the
2 last meeting shall be read and corrected, if erroneous, and signed
3 by the presiding officer for the time being. Upon the call of
4 any member the ayes and noes on any question shall be taken
5 and recorded by the recorder in the "minute book." The call
6 of the members for such vote shall be made alphabetically.

To Whom Money of City Shall Be Paid.

Sec. 38. All moneys belonging to the city shall be paid over
2 to the city treasurer; and no money shall be paid out by him
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3 except as the same shall have been appropriated by the council,
4 and upon an order signed by the president of the council and
5 recorder, and not otherwise(except at the expiration of his term
6 of office upon the order of the council, signed by the president of
7 the council and recorder, he shall pay over to his successor all
8 the money remaining in his hands.

Police Docket.

Sec. 39. A well bound book, indexed, to be denominated
2 the "police docket," shall be kept in the office of the police judge,
3 in which shall be noted each case brought before or tried by him,

4 together with the proceedings therein, including a statement of
5 the complaint, the warrant or summons, the return, the fact of
6 appearance, or non-appearance, the defense, the hearing, the
7 judgment, the costs, and in case the judgment be one of convic-
8 tion the action taken to enforce the same. The record of each
9 case shall be signed by the police judge and the original papers
10 thereof, if no appeal be taken, shall be kept together and preserved
11 in his office.

Annual Levy.

Sec. 40. The council shall be governed in all respects in
2 laying the annual levy or any additional or special levy by chapter

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3 nine of the acts of the extraordinary session of the legislature of
4 West Virginia of one thousand nine hundred and eight and by
5 chapter eighty-five of the acts of the session of the legislature of
6 one thousand nine hundred and fifteen as the same is amendatory
7 of certain sections of the said chapter nine of the said acts of one
8 thousand nine hundred and eight, except that they may include
9 a poll tax or not exceeding one dollar each year upon each able
10 bodied man therein, who is above the age of twenty-one years and
11 not over fifty years of age, which poll tax shall be used exclusively
12 for opening, improving and maintaining roads, streets and alleys
13 of the city, and shall designate the same as the "street taxes";
14 and said council may also impose such license tax upon dogs and
15 other animals as they may deem proper, and collect the same from
16 the owners of such animals, as other taxes are collected, and pre-
17 scribe such rules, regulations and penalties governing the payment
18 of such tax on animals as they may deem reasonable. And
19 the general annual levy upon the taxable property within the
20 corporate limits of said city shall not exceed the sum of thirty-
21 five cents upon each one hundred dollars valuation. But in addi-
22 tion to said levies above mentioned, and in addition to any levies
23 provided by the general law, with which these are not meant to
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24 conflict, the council of said city, beginning with the year one
25 thousand nine hundred and seventeen, are empowered to and shall
26 lay a special annual levy not to exceed twenty cents on each one
27 hundred dollars valuation of the property in said city for the
28 purpose of creating a sinking fund with which to pay off the prin-
29 cipal of the present outstanding bonded indebtedness of said city
30 when the same becomes due and for the purpose of paying an-

31 nually, when due, the interest coupons of the said present out-
32 standing bonded indebtedness of the said city, which said special
33 levy shall be continued annually by the council for as many years
34 as may be necessary to pay off said present outstanding bonded
35 indebtedness and the interest coupons that may become due
36 thereon, but no longer. Also, in addition to the above, the said
37 council, beginning with the year one thousand nine hundred and
38 seventeen, are empowered to and shall lay a special annual levy
39 not to exceed fifteen cents on each one hundred dollars valuation
40 of the property in the said city for the purpose of paying off
41 any outstanding orders issued against the treasury of said city
42 prior to July the first, nineteen hundred and sixteen, and for the
43 purpose of paying off any debts contracted prior to said date or
44 any judgment taken against the said city prior to said date.

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45 And both of the aforesaid special levies, when collected, shall be
46 used for no other purposes than for the aforesaid purpose
47 for which they shall be laid as aforesaid.

Liens for Taxes.

Sec. 41. There shall be a lien on all real estate within the
2 said city for the city taxes assessed thereon, and for all fines and
3 penalties assessed against or imposed upon the owners thereof, by
4 the authorities of said city, including expenses for making, main-
5 taining and repairnig, paving and macadamizing sidewalks, drains,
6 gutters and streets from the time the same are so assessed or
7 imposed, which shall have priority over all the other liens except
8 taxes due the state, county and district, and such lien may be en-
9 forced by the council in the manner provided by law for the en-
10 forcement of the lien for county taxes. And the laws of the state
11 of West Virginia in relation to delinquent taxes, and the sale of
12 property therefor, are hereby and in all respects adopted as to
13 all proceedings in relation to taxes for city purposes delinquent
14 in said city. And the powers and duties conferred by the laws
15 of said state upon county courts and their clerks and sheriffs in
16 regard to delinquent taxes and their collection, are hereby in all
17 things conferred upon said city council, its recorder and other city
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39 statement, by separate items, of all disbursements made by him
40 during such period, with his vouchers evidencing the same. He
41 shall receive all taxes upon licenses and receipt to the party paying
42 the same, by endorsement upon the permit granted by order of the

43 council, or police judge, as the case may be. He shall, upon the
 44 expiration of his term of office, turn over to the council all books
 45 and other property in his possession belonging to the city, except
 46 the money in his hands, which he shall turn over to his successor,
 47 upon the order of the council, as hereinbefore provided; and shall,
 48 before entering upon the duties of his office, execute a bond,
 49 with good security payable to said city in a penalty of not less
 50 than ten thousand dollars, conditioned that he will faithfully
 51 discharge the duties of his office and account for and pay over as
 52 required by law and the orders, ordinances, rules and regulations
 53 of the council of said city, all money which shall come into his
 54 hands, which bonds shall be subject to the approval of the council.
 55 He shall be chargeable with all the city taxes, levies and assess-
 56 ments and money of the city, which shall come into his hands and
 57 shall account therefor.

Additional Duties of Assessor and Treasurer.

Sec. 43. In addition to the other duties of the assessor it

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2 shall be his duty on or before the first day of August, in each
 3 year, to make a copy from the real and personal property books
 4 of the assessor of Mercer county of all property shown to be liable
 5 for taxes within the limits of the city of Princeton, and to certify
 6 such under his hand as a true and correct copy thereof, and to
 7 deliver the same to the council, to assist said council in pre-
 8 paring the annual estimate of expenses to be certified as a basis
 9 for the annual levy. After such annual levy is made in each year,
 10 it shall be the duty of the assessor to extend said levy upon said
 11 real estate and personal property books for said city, but the
 12 treasurer shall prepare proper tax tickets therefrom against all
 13 owners of real estate and personal property subject to taxation in
 14 said city.

Licenses.

Sec. 44. The council shall prescribe by ordinance the time and
 2 manner in which licenses of all kinds shall be applied for and
 3 granted, and shall require the payment of the tax thereon to the
 4 city recorder, before the delivery thereof, to the person applying
 5 therefor, which tax shall include the same fees for the issuing of
 6 such licenses as are charged for similar services by state and
 7 county officers, which fees shall be paid into the city treasury.

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18 officials whose duties are of a similar nature as those of said county

19 officials, in so far as the same may be directly or by implication
20 applicable in the collection of delinquent taxes due said city.

Collection of Taxes.

Sec. 42. It shall be the duty of the city treasurer when the
2 extended copies of the assessor's books are completed, to receive
3 a copy thereof, receipting to the council for the same, and it shall
4 be his duty to collect from the parties the entire amount of the
5 taxes with which they are severally charged therein, and may pro-
6 ceed to collect the same at any time after the first day of August,
7 and may enforce the payment thereof by levy upon the personal
8 property, and sale thereof, of the person charged with taxes at
9 any time after the first of October, next, after said taxes are
10 assessed. He may also allow a discount of two and one-half per
11 cent on all taxes paid on or before the thirtieth day of November.
12 Said taxes shall be a lien upon the property upon which they are
13 assessed, from and after the time the assessor's books are com-
14 pleted, verified and returned to the city council, and he shall write
15 the word "paid," opposite the name of each person who pays the
16 taxes against him, and shall also give to the person paying such
17 taxes a receipt therefor; *provided, however,* that said treasurer

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18 may distrain at any time for any taxes assessed against a person
19 who is about to remove, or who has removed from said city, after
20 such taxes are assessed, and the books returned as aforesaid. He
21 shall also receive such other moneys of the city as he is authorized
22 by this act to receive, and also all moneys ordered by the council
23 to be paid to him, giving receipt therefor to the parties paying the
24 same, and shall keep an accurate, itemized account of all money
25 received by him. His books shall, at all times, be open for the
26 inspection of the police judge, council, city recorder, and to any
27 taxpayer of the city. He shall also make up monthly statements
28 of the money received by him and the amount paid out by him
29 and to whom, showing the amounts in his hands from all sources,
30 and shall post the same in the police judge's office on the last day
31 of each month. He shall pay out the money in his hands upon
32 the order of the city council, upon orders signed by the president
33 of council and the recorder. He shall, on or before the expiration
34 of the term of office of the police judge, and at such other times
35 as the council may require, present to the council a full and com-
36 plete statement of all the moneys with which he is chargeable, or
37 that have been received by him and not previously accounted for,

38 and shall at the same time, in like manner, furnish a complete
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8 The council may revoke any such license for a breach of any of
9 the conditions, or for other good cause shown, but the person hold-
10 ing such license, must first have reasonable notice of the time and
11 place of hearing and adjudicating the matter, as well as the cause
12 alleged; and shall be entitled to be heard in person or by counsel,
13 in opposition to such revocation. The term for which licenses pro-
14 vided for in this charter shall be granted shall be governed by the
15 general law providing for state licenses.

Condemnation of Land for Public Use.

Sec. 45. The council shall have the right to institute and
2 prosecute proceedings in the name of the city for condemnation of
3 real estate for streets, alleys, roads, drains, sewers, market
4 grounds, city prison, city hall, water works, electric light plant
5 or other works, or purposes of public utility. Such proceedings
6 shall conform to the provisions of chapter forty-two of the code
7 of West Virginia, and the expenses thereof shall be borne by the
8 city, except in cases where it is proper under said chapter to
9 charge said expenses or any part thereof against the defendant.

Provisions for Bonding City.

Sec. 46. The council of the said city shall have the right to
2 bond the said city for the purpose of paving the said streets or for
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3 other permanent improvements, or for the purpose of taking up,
4 paying off or refunding any already outstanding city bonds or
5 items of indebtedness, whenever the council thereof may deem
6 the same necessary; but the aggregate indebtedness of the said city
7 for all purposes shall never at any time exceed five per centum
8 of the assessed valuation of the taxable property therein according
9 to the last assessment next preceding said date. The said council
10 shall provide a fund for the payment of the interest annually on
11 the said indebtedness so created, and to pay the principal thereof
12 within and not exceeding thirty-four years; *provided*, that no
13 debt shall be contracted hereunder, unless all questions connected
14 with the same be first submitted to a vote of the qualified voters
15 of said city, and have received three-fifths of all the votes cast for
16 and against the same.

No Indebtedness to Be Created for Current Expenses.

Sec. 47. The council of the said city shall not, at any time, or
2 for any purpose, create any indebtedness against the said city

3 except as provided in the next preceding section, exceeding the
 4 available assets of the said city for the current year; and if the
 5 said council shall create such indebtedness or issue orders on the
 6 city for an amount exceeding the amount of money collected for
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7 that year for said city from all sources, and the amount of money
 8 then in the treasury appropriated, the members of said council
 9 shall be severally and pointly liable for the payment of the
 10 excess of such indebtedness or orders over the amount of money
 11 applicable thereto, and the same may be recovered in any court
 12 having jurisdiction thereof. Any councilman violating the pro-
 13 visions of this section shall be deemed guilty of malfeasance in
 14 office, and may be removed as such councilman by the council.
 15 *Provided, however,* this shall not be applicable to such members
 16 who have voted against said excess; and, *provided, further,* that
 17 the vote of each member of council shall be recorded.

Streets, Roads and Bridges.

Sec. 48. The said city shall construct, conduct and maintain
 2 its own roads and streets, and by reason thereof shall not be re-
 3 quired to pay any district or county road levies for the construc-
 4 tion and maintenance of roads outside of the city limits.

Existing Ordinances.

Sec. 49. All ordinances, by-laws, resolutions and rules of the
 2 City of Princeton in force on the day preceding the passage of this
 3 act, which are not inconsistent therewith, shall be and remain in
 4 full force over the whole boundary of said city of Princeton, as

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5 established by this act, until the same are amended or repealed by
 6 the council of said city, and the officers elected on the first Tuesday
 7 in June, one thousand nine hundred and nineteen, in the city of
 8 Princeton, shall remain in office until successors under this act
 9 are elected and qualified as hereinbefore provided; and after this
 10 act takes effect, shall have jurisdiction over all the territory em-
 11 braced in the boundary specified in this act, and shall perform all
 12 the duties of such respective officers under this act; but nothing
 13 in this act shall be construed or held to in any way affect or impair
 14 any of the bonds, obligations or indebtedness of the city of Prince-
 15 ton issued or contracted prior to the passage of this act; but on
 16 the contrary, the said city of Princeton shall be liable for all the
 17 bonds, obligations and indebtedness of the city of Princeton as
 18 though the same had been created under this charter.

Power to Make and Maintain Sidewalks. Streets, Etc.

Sec. 50. The council shall have power to provide for the construction, maintenance and repair of sidewalks, drains and gutters upon the streets of the city, and assess the expense of the construction, maintenance and repair of the same upon the property abutting thereon and the owners thereof and collect the same in the same manner as other taxes and levies are collected, and shall

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have power to macadamize and pave the streets of the said city, or any of them, and assess part of the expenses of macadamizing and paving not to exceed one-third thereof upon the abutting property on each side thereof, and the owners thereof, and collect the same in the same manner as other taxes and levies are collected; and such assessments for sidewalks, drains, gutters, macadamizing and paving shall be a lien upon such abutting property, the same as other taxes and levies within said city upon the property therein. *Provided, however,* that whenever the council shall deem it expedient to cause any street or alley in said city to be paved, curbed, macadamized, concreted or otherwise improved in permanent manner, upon the petition in writing of persons owning not less than three-fifths of the amount of the frontage of the lots abutting on both sides of any street or alley, between any two cross streets, or between a cross street and an alley, the council shall order so much of said street as is described in said petition improved as aforesaid and assess a part not to exceed one-half of the expenses of such improvements upon the abutting property on each side thereof, and the owners thereof, and collect the same in the manner as other taxes and levies are collected; and such assessments shall be a lien upon such abutting property, the same as

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other taxes and levies in said city are liens upon the property therein; *provided, further,* that nothing herein shall be construed to prevent the council from arranging for the construction of any such improvement, by agreement with the abutting property owners, if the council shall so desire and deem it advisable to do so.

The Council to Appoint Officers to Hold Elections Hereunder.

Sec. 51. The council of the city of Princeton shall provide places for voting in said city in all municipal elections of the city, and appoint commissioners residing therein to hold and conduct the election hereinbefore provided to be held, shall divide the city

5 into such voting precincts as are necessary, and shall pass all
6 proper ordinances to give this act full force and effect.

Where Money to Be Deposited.

Section 52. It shall be the duty of the city treasurer to keep
2 all funds of the city in some bank or banks within said city,
3 which shall pay interest on such deposits and on the average daily
4 balances of such funds of the per cent equal, at least, to that paid
5 by state depositories on all funds of the state of West Virginia
6 and in the same manner and at the same time. If no bank within
7 said city is willing at any time to receive deposits of the treasurer
8 and pay such interest thereon, the treasurer shall report this fact
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9 to the council, whereupon the council shall designate the bank or
10 banks in which he shall deposit said funds for the time being and
11 until some bank in said city will receive deposits on such terms.

Salaries.

Sec. 53. The salary of the city manager shall be from eighteen
2 hundred to three thousand dollars, (at the discretion of the
3 council,) per year. The combined salary of the police judge and
4 city treasurer shall be in the aggregate from fifteen hundred to
5 eighteen hundred dollars (at the discretion of the council) per
6 year. The said salaries of the city manager and police judge
7 and treasurer are to be paid out of the city treasury, and no other
8 fees, commissions, emoluments, salaries or compensations what-
9 soever shall be allowed them for such services. All other salaries,
10 not herein fixed by this act, shall be fixed by the city council.

ENGROSSED

House Bill No. 310

A BILL to amend and re-enact the Act of the Legislature of West
Virginia, passed on the sixth day of March, 1907, creating
municipal corporation of "The City of Logan", in the county of
Logan, and to also re-enact chapter eighty-eight of the Acts of
the Legislature of the year 1909, and chapter eighty-two Acts
of the Legislature of 1913, and amending said act incorporating
"The City of Logan."

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of that portion of Logan
2 county in the State of West Virginia, included within the boundary
3 described in section two of this act, now a municipal corporation
4 existing and known as "The City of Logan", shall continue to be
5 a body politic and corporate under the same name, and as such
6 shall have perpetual succession; may use a corporate seal; may sue
7 and be sued; plead and be impleaded; contract and be contracted
8 with; acquire property for municipal purpose in fee simple, or
9 lessor interest or estate, by purchase, gift, devise, appropriation,
10 lease, or lease with the privilege to purchase, either within or with-

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11 out the city limits, subject to the rights of other affected municipal
12 corporations; may sell, lease, hold, manage and control such
13 property, and make any and all rules and regulations, by ordinance
14 or resolution which may be required to carry out fully all pro-
15 visions of any conveyance, deed or will, in relation to any gift or
16 bequest, or the provisions of any lease by which it may acquire
17 property; may grant public franchises to be exercised within the
18 city; may acquire, construct, own, lease and operate light, heat and
19 power plants, and water plants, or water works, may
20 assess, levy and collect taxes for general and special pur-
21 poses on all the subjects or objects within its bound-
22 aries which the city may lawfully tax; may borrow money
23 for permanent improvements and public works on the faith and
24 credit of the city by the issue or sale of bonds or notes of the
25 city, and in the issuance and sale of said bonds the said city shall
26 be governed by the restrictions and limitations of the constitution
27 and laws of the state relating to the issuance and sale of bonds, so
28 far as said state laws are not in conflict with the provisions of
29 this act; may pave, repave, curb, grade, regrade, sewer, resewer,
30 or otherwise permanently improve any street, alley, or roadway
31 within the city limits, and assess the entire cost thereof, excluding
32 the cost of intersections, with interest, or any part thereof, against
33 the owners of the abutting or benefitted properties in accordance
34 with an ordinance that shall permit the payment of said assess-
35 ments in anual installments, and may in anticipation of the levy-
36 ing of said assessments, issue and sell its bonds, as hereinbefore
37 provided, to the estimated amount of the cost of said improve-
38 ments, and apply said assessments as same are paid to the liqui-

39 dation of said bonds and interest thereon; may appropriate the
40 money of the city for all lawful purposes; may appropriate the
41 money of the city for all lawful purposes; may create, provide for,
42 construct, regulate and maintain all things of the nature of public
43 works and improvements; may direct the laying out of lots and
44-45 opening of streets and roadways; may define, prohibit
46 it, abate, suppress, and prevent all things detrimental
47 to the health, morals, comfort, safety, convenience and
48 welfare of the inhabitants of the city, and all nuisances
49 and causes thereof; may regulate the construction, height
50 and materials used in all buildings and structures of every
51 kind, and the maintenance, occupancy and use thereof; may
52 regulate and control the use, for whatever purpose, of the streets
53 and other public places; may create, establish, organize and abolish
54 offices not specifically provided for by this act, and fix the salaries
55 and compensation of officers and employees when not fixed herein;
56 may make and enforce local police, sanitary and other regulations,
57 and prescribe, impose and enforce reasonable fines and penalties
58 including imprisonment, and with the consent of the county court
59 of Logan county, shall have the right to use the jail of said county
60 when necessary; and may pass such ordinances and resolutions as
61 may be expedient or necessary for maintaining and promoting the
62 peace, good government and welfare of the city, and for the per-
63 formance of the functions thereof. The city of Logan as consti-
64 tuted by this act, shall retain, keep and succeed to all rights, priv-
65 ileges, property, interest, claims and demands heretofore acquired
66 by, vested in or transferred to the said city as heretofore consti-
67 tuted and shall have all powers that now are or hereafter may be
68 granted to municipalities by the constitution or laws of West Vir-
69 ginia, or that are herein by implication conferred, or are necessary
70 to or consistent with the purposes of this act; and all such powers,
71 whether expressed or implied, shall be exercised and enforced in
72 the manner prescribed by this act, or when not prescribed herein,
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73 in such manner as shall be provided by ordinances or resolutions
74 of the governing body herein provided for.

Sec. 2. The corporate boundaries of said city shall be as fol-
2 lows:

3 Beginning at a stake in the center line of the Guyan Valley
4 Railroad at the Bill Ellis Hollow; thence north 17° 33' East

5 854.65 feet to a dead sugar tree in the Bill Ellis Hollow; thence
 6 north 29° 39' West 7019 feet to a stake in the center line of the
 7 Guyan Valley railroad at the mouth of Varney Branch; thence
 8 north 78° 29' West 528.07 feet crossing Guyandotte river to a
 9 stake at high water mark and on the lower edge of the county
 10 road; thence with the high water mark of said river to the mouth
 11 of Island Creek, a distance of about one-half mile, thence with the
 12 right hand side of said creek (as you ascend the same), to the
 13 right of way of the county road at the county bridge across
 14 Island Creek, thence crossing Island Creek on a line parallel with
 15 said bridge to the right of way of the county road and thence
 16 with the right of way of the county road to Guyandotte river and
 17 crossing Guyandotte river on a line parallel with the county bridge
 18 across said river to high water mark on the left hand side of said
 19 river (as you ascend the same), on the lower side of the public

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20 road or street, and thence with said high water mark to the upper
 21 line of the street or public road at the point where the county
 22 bridge crosses Guyandotte river, and thence recrossing Guyandotte
 23 river on a line parallel with the line of the county bridge across
 24 Guyandotte river to high water mark on the right hand side of
 25 said river (as you ascend the same), and thence with high water
 26 mark of said river on the right hand side (as you ascend the
 27 same to the bridge across Guyandotte river; and crossing the river
 28 with the bridge on the lower side thereof to the county road; and
 29 thence continuing on the line of said bridge to the said railroad
 30 and with the center of the railroad to the beginning.

31 For all purposes, except taxation, herein enumerated or im-
 32 plied, the city authority shall have jurisdiction for one mile be-
 33 yond the city limits.

Sec. 3. The municipal authorities and jurisdiction herein
 2 granted are hereby vested in the following offices hereby created
 3 for the purpose of governing said city under this charter, to-wit:
 4 mayor and five councilmen, until the city is divided into wards,
 5 after which there shall be one councilman for each ward. The
 6 mayor, councilmen, city clerk, city assessor and city treasurer shall
 7 each be elected by the voters residing in said city. Two or
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8 more of these three last mentioned offices may be held by the
 9-10 same person at the same time.

11 The municipal judge, whose appointment shall be in the discre-

tion of the council, and unless a municipal judge shall have been so appointed by the council and duly qualified, the mayor shall act ex-officio as municipal judge, and the mayor shall likewise act as municipal judge in case of a vacancy in that office. Any two or more of the following offices may be held by the same person at the same time in the discretion of the council: chief police and members of police force, chief fire department and firemen, city engineer, city superintendent of streets, city health officer.

Sec. 4. The term of each of the officers herein provided for shall be two years, and until their successors are elected or appointed, and qualified, except all officers appointed to fill an unexpired term shall be appointed only for the unexpired portion of the term of the officers in whose stead they are appointed, and shall likewise hold their office until their successors are elected or appointed and qualified. Persons holding office under the municipal government of said city of Logan, under the charter now in force, shall continue in such offices, and in the performance of

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their respective duties until the term of their offices expire under the charter now in force, and upon the expiration of the term of each of said officers now holding office in said city, under the charter now in force, the term of the officers herein provided for shall thereupon begin.

Sec. 5. No person shall be eligible to the office of mayor or councilman, unless he or she is a qualified voter residing within said city, and entitled to vote at the last preceding election in said city, nor unless he or she has resided therein for at least one year next before his or her election, and after the city is divided into wards each councilman shall be a resident of the ward from which he is elected, and in addition thereto said mayor or councilman must have been assessed with personal property of the value of five hundred dollars, and have actually paid the taxes thereon for the year next preceding the term of office upon which he or she is to enter.

Sec. 6. Every person elected or appointed to any office under this charter before proceeding to exercise the authority, or discharge the duties thereof, shall make oath or affirmation, that he or she will support the constitution of the United States and the constitution of this state, and that he or she will faithfully

6 discharge the duties of his or her said office to the best of his or
7 her skill and judgment, and no other oath, declaration or test
8 shall be required.

Sec. 7. The officers of the city shall be paid a monthly salary,
2 the amount of which shall be fixed by counsel at the meeting
3 of the council at which levies are required to be laid under the
4 general laws of this state, and such salaries shall not be increased
5 or decreased during the year, except upon the unanimous vote
6 of the council to meet emergencies except that each member of
7 the council shall be paid the sum of five dollars for each regular
8 monthly meeting of the council actually attended, and shall re-
9 ceive nothing for special meetings nor for meetings not attended,
10 and such councilmen shall not receive any further salary.

Sec. 8. The treasurer of the city shall before receiving any
2 of the funds of the city, execute a bond with approved securities
3 thereon in the penalty of at least ten thousand dollars, and con-
4 ditioned for the faithful performance of his other duty as treas-
5 urer of the city, and to pay over all monies and to deliver all
6 funds coming into his or her hands by virtue of his or her office
7 as required by this charter, the council or by the general laws of
8 the state of West Virginia, which bond shall be filed with the

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9 council and approved by them, and the chief of police and each
10 member of the police force shall likewise before entering upon
11 the discharge of their duties, execute and deliver to the council
12 a bond in the penalty of at least three thousand five hundred
13 dollars, conditioned as required by the general law to be executed
14 by a police officer before said police officer is authorized to carry
15 a pistol or other weapon.

16 Said bonds and all bonds, contracts and documents entered
17 into by and with said city shall be in the name of "The City
18 of Logan."

Sec. 9. The first election under this charter shall be held on
2 the first Thursday in April, 1921, and all subsequent general
3 election of officers shall be held on the first Thursday in April,
4 each second year thereafter.

5 The special elections authorized hereunder shall be held as
6 provided by the council in the order calling the same. Said elec-
7 tion shall be held at the voting precincts into which the city
8 is now or may hereafter be divided for general elections of state
9 and county officers, except that after the city is divided into

10 wards each ward shall constitute one or more voting precincts
11 as directed by the council.

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12 At each election in said city all persons, both male and female,
13 who are entitled to vote under the constitution and laws of the
14 United States, and the constitution and laws of the State of
15 West Virginia, and who have resided within said city for at
16 least six months prior to said election, shall at such election be
17 entitled to vote upon their being duly registered as required by
18 law.

19 The elections shall be held by commissioners, clerks and chal-
20 lengers appointed by the council, and in the manner prescribed
21 by chapter three of the code of West Virginia, governing the
22 holding of elections, so far as the same is applicable and not
23 inconsistent with provisions of this charter. The council per-
24 forming all of the duties and functions required to be performed
25 by the county court in said charter, and the voters to be regis-
26 tered by registrars appointed by the council, unless the council
27 shall adopt the registration made at the last general election as
28 the registration for the city election about to be held.

29 The council shall convene as a canvassing board at ten o'clock
30 on the day next following each election, and shall canvass and
31 declare the returns of the election, make all recounts and de-
32 cide all contests demanded or made by any candidate for office,

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33 of any special elections for the issuing of bonds by any citizen
34 and tax payer of the city in the manner that the county court
35 is required to do under chapter one hundred and three, chapter
36 six and chapter seven of the code of West Virginia, so far as
37 the same is applicable, and any contest thus decided by the
38 council may be appealed to the circuit court of Logan county
39 as provided in said chapters.

Sec. 10. The council shall nominate and by a majority vote
2 appoint all officers whose offices are established by this charter,
3 and such additional officers and employes as said council may
4 from time to time by ordinance create, except the officers herein
5 provided to be elected.

Sec. 11. That in case of a vacancy during the recess of the
2 council in office which is not elective, the mayor shall, by ap-
3 pointment, fill such vacancy until the next meeting of the coun-

4 cil, when the vacancy shall be filled by the council, a sherein
5 provided for the appointment of officers by the council, and in
6 case of a vacancy in the office of mayor or councilman, the council
7 shall nominate and appoint the mayor or councilman to fill the
8 vacancy.

Sec. 12. All officers elected or appointed unde rthis charter
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13 acts and proceedings of each meeting shall be recorded and at
14 each meeting the proceedings of the last meeting shall be read,
15 corrected, if erroneous, approved and signed by the presiding
16 officer.

17 A majority of all of the members elected to the council shall
18 be necessary to constitute a quorum for the transaction of business,
19 but a smaller number may meet and compel the attendance by
20 proper process as provided by general law of the other members
21 of the council refusing or failing to attend.

Sec. 15. All the corporate powers and functions, jurisdiction
2 and authority pertaining to the City of Logan and herein granted
3 to it, and not specifically delegated to some other officer of the
4 city, is hereby granted and vested in the council, who shall trans-
5 act no business except when assembled as a council, and when so
6 assembled shall have full power, authority and jurisdiction to
7 carry into effect all of the powers of the municipal corporation
8 granted under this charter or general law, or necessary for the
9 full enjoyment of the power and privileges so granted. And it
10 shall be the duty of the council to make and to have executed all
11 ordinances, resolutions, by-laws, necessary, proper or convenient
12 to enable said council to carry out all of the powers, privileges,

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13 functions and authority granted to this city under section one of
14 this charter, and to specifically provide for the holding of the elec-
15 tions herein provided for, and appoint the officers herein provided
16 for, and to have kept and to preserve the records of the city as
17 herein provided for, to impose the taxes herein provided for, and to
18 have the same collected and properly disbursed, and to do and
19 perform all things necessary for the governing of the city of
20 Logan under this charter, and especially to preserve the peace,
21 health and welfare of the inhabitants of said city.

Sec. 16. The council shall cause to be kept by the "City Clerk", in
2 a well bound book (which may be a loose leaf book), to be called
3 the "Minute Book," an accurate record of all proceedings, acts,

4 orders and resolutions, and in another book (which may be loose
5 leaf record), to be called "Ordinance Book", an accurate copy of
6 all general ordinances, adopted by the council, both of which shall
7 be accurately indexed and open to the inspection of any one who
8 pay taxes in the city, or who may be otherwise interested therein.
9 All oaths and bonds of officers of the city, and all papers of the
10 council shall be endorsed, filed and securely kept by the "City
11 Clerk". The bonds of all officers shall be recorded in a well

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12 bound book (which may be a loose leaf book), to be called "Record
13 of Bonds".

14 The transcript of any of the proceedings, acts, orders, resolu-
15 tions, ordinances or bonds, recorded, as aforesaid, when duly cer-
16 tified by the "City Clerk", under the seal of the city, shall be
17 admissible in evidence in any court or before any justice of the
18 peace in the state of West Virginia.

Sec. 17. The "City Clerk" shall accurately keep the minute book
2 and the ordinance book, as provided in section sixteen, and shall
3 accurately record all bonds as provided in said section, and shall
4 have charge of and preserve the records of the city.

5 In the absence of the mayor from the city, or his inability for
6 any cause to act as mayor, or during any vacancy of the office of
7 mayor (until the same is filled by the council as herein provided),
8 the city clerk shall perform the duties of the mayor, and to that
9 end, in addition to the powers herein conferred upon him, the
10 city clerk is hereby vested, when so acting as mayor, with all the
11 powers necessary for the performance of the duties of the mayor.

12 The city clerk shall attend each meeting of the council, and per-
13 form such other duties as the council may require of him.

Sec. 18. It shall be the duty of the assessor to make an assessment

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2 of the property within the city subject to taxation, substantially
3 in the manner and form in which the assessments are made by
4 the assessor of the county, and return the same to the council, on
5 the same day that the assessor of the county is required to return
6 the county assessment to the county court of Logan county, and for
7 this purpose the city assessor shall have all the powers conferred by
8 law upon the county assessor of Logan county, the valuation of
9 which property shall be the same as the valuation for the county
10 and state taxation.

11 He shall list the number of dogs, and other animals, subject
12 to license tax in the city, and the name or names of persons own-
13 ing the same, which list shall likewise be returned to the council
14 at the same time the assessment of property is returned.

15 In order to aid the assessor in ascertaining the property subject
16 to taxation by the city, he shall have access to all books and public
17 records of Logan county without expense to him of the city, and
18 he shall have the same powers and be subject to the same penalties
19 in ascertaining and assessing the property, subject to taxation in
20 said city, as are granted and imposed on the county assessors
21 throughout the state by general law.

22 When the assessor shall have completed his assessment he shall
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23 deliver the same upon the order of the council, sworn to by him,
24 to the city treasurer.

Sec. 19. It shall be the duty of the city treasurer to receive
2 the assessment of property and animals subject to license tax
3 in the city from the city assessor upon the order of the council,
4 and he shall, thereupon, within the time prescribed for the col-
5 lection of county taxes, collect from the persons and corporations,
6 the entire amount of taxes with which they are charged in said
7 assessments. He shall allow the same discount to persons paying
8 their taxes before the 30th day of November of each year as
9 is allowed by general law to tax payers on county and state
10 taxes, and he is hereby given the same authority and power to
11 levy upon personal property of persons assessed with taxes and
12 to make sale of the same in the same manner and to the same
13 extent as the sheriff of the county is allowed to make levies and
14 sales of personal property for state and county taxes. He shall
15 make out and deliver to each tax payer proper receipts for the
16 taxes so paid by the tax payer and may in the same manner that
17 the sheriff of the said county is required to make out and de-
18 liver to tax payers, receipts for taxes paid to the sheriffs, and
19 the treasurer shall make settlements of his accounts before the

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20 council on the same dates that sheriffs are required to make
21 settlement with the county court for the taxes collected by them.
22 The treasurer shall keep an accurate itemized account of all
23 taxes collected by him, of all monies received by him on behalf
24 of the city from any source, and this account shall at all times,

25 be open for the inspection of the mayor, council, city clerk, or
26 any tax payer of the city. He shall also make up, when required
27 by the council, statements of the money in his hands and the
28 amount paid out by him, which account shall show to whom
29 and on what authority each item was paid.

30 He shall also collect and receipt for all license tax imposed
31 by the council.

32 He shall pay out the money in his hands upon the order of
33 the city council, which order shall be signed by mayor and city
34 clerk.

35 He shall at the expiration of his term of office and at such
36 other itmes as the council may require, present to the council
37 a full and complete statement of all monies with which he is
38 chargeable, or that have been received by him, and not previously
39 accounted for, and shall at the same time, and in like manner,
40 furnish a complete statement, by separate items, of all disburse-
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41 ments made by him during such period, and with his vouchers
42 evidencing the payment of the same. He shall upon the ex-
43 piration of his term of office, turn over to the council, all books
44 and other papers in his possession belonging to the city, except
45 the money in his hands, which he shall turn over to his suc-
46 cessor upon the order of the council. He shall immediately
47 after his induction into office, make up an accurate account and
48 keep the same revised to date of all the bonded indebtedness of
49 the city.

Sec. 20. The judicial power of the city shall be vested in a muni-
2 cipal court. Said court shall have exclusive jurisdiction of all
3 criminal proceedings for the violation of any city ordinance, and
4 for the collection of any license or tax imposed by any city
5 ordinance, and shall have voncurent jurisdiction with justices
6 of the peace of Logan county in the following offenses committed
7 within the city, to-wit: petty larceny, assault and battery, breeches
8 of the peace, rioting, committing wilful injury to property, and
9 all misdemeanors, punishable by fine or by imprisonment in the
10 county jail, or both, proceedings respecting vagrants, lewd or dis-
11 orderly persons, and lewd or disorderly conduct.

12 The municipal court shall be presided over by a municipal

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13 judge who shall be appointed by the council, and who may be a

14 justice of the peace of Logan county having an office in the city
15 of Logan, until the municipal judge shall have been appointed
16 and qualified, and thereafter in case of a vacancy of the office
17 of municipal judge, the mayor shall act as ex-officio municipal
18 judge. The municipal judge shall within the city, have, possess
19 and exercise all the powers, and perform all of the duties vested
20 by law in the justice of the peace, except that he shall have no
21 jurisdiction in criminal cases or causes of action arising outside
22 of the corporate limits of the city, said limits to include, however,
23 the one mile extension of the jurisdiction of the city, provided
24 for in section two of this act. He shall have the same power to is-
25 sue attachments in civil suits as the justice of the peace have, al-
26 though the cause of action arose outside of the city. Said attach-
27 ments shall be returnable to and be held before some justice of the
28 county of Logan. Any warrant or process issued by the muni-
29 cipal judge may be executed at any place in Logan county. He
30 shall have the power to issue executions for all fines, penalties
31 and costs imposed by him, or he may require the immediate pay-
32 ment thereof, and in default of such payment he may commit
33 the party in default to the jail of Logan county, or until the
34 fine or penalty and costs shall have been paid, but the term of
35 imprisonment in such cases shall not exceed thirty days. The
36 expense of maintaining any person committed to the county jail
37 by the municipal judge shall be borne by the city, except it may
38 be to answer an indictment or be under the provision of section
39 two hundred and twenty-seven and two hundred and twenty-
40 eight of chapter fifty of the Code of this state. The municipal
40-a. judge shall not receive any money belonging to the city or in-
41 dividuals, unless he shall give bond and security as is required
42 by justices of the peace, and all provisions of said chapter fifty
43 of the Code relating to monies received by justices shall apply
44 in like manner to the municipal judge.

45 He shall have authority to sentence an offender to labor upon
46 the streets or other public works of the city for a period not ex-
47 ceeding thirty days, and the compensation for said labor shall be
48 paid to said offenders, dependents, if any, in conformity with such
49 regulations as council may by ordinance provide.

50 Appeals shall lie from the judgment of the municipal court
51 to the circuit court of Loan county in accordance with law in
52 the same manner as appeals are allowed from justice of the peace,

53 or mayor, under chapter forty-seven of the Code of West Virginia.

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54 The municipal judge may be allowed a salary fixed by an or-
55 dinance of the council, in which case the fees and costs collected
56 by him shall be paid into the city treasury, or said ordinance may
57 provide that no salary be paid the municipal judge, and in lieu
58 thereof that he receive the same fees as are provided by law for
59 justice of the peace in criminal and attachment cases. In this
60 vent, however, the city shall assume no liability for the collection
61 or any of said fees.

62 A well bound book, indexed, to be denominated the "police
63 docket," shall be kept in the office of the municipal judge, in
64 which shall be noted each case brought before or tried by him, to-
65 gether with the proceedings therein, including a statement of the
66 complaint, the warrant or summons, the return, the fact of ap-
67 pearance, or non-appearance, the defense, the hearing, the judg-
68 ment, the costs, and in case the judgment be one of conviction
69 th action taken to enforce the same. The record of each case
70 shall be signed by the Police Judge and the original papers
71 thereof, if no appeal be taken, shall be kept together and pre-
72 served in his office.

Sec. 21. The city solicitor shall be an attorney at law author-
2 ized to practice in the courts of Logan county, and he shall be
3 the legal advisor of the city and of all its officers in all matters
4 arising and in which legal proceeding may be taken. He shall
5 prosecute all suits, actions and proceedings, instituted on behalf of
6 the city and defend all suits, actions and proceedings against the
7 city, when requested in writing, shall give his written opinion to
8 the mayor or council upon such legal questions as may be referred
9 to him affecting the city's interest, and he shall perform such
10 other duties as may be required by the council. It shall be
11 his duty to attend the sessions of the council when requested, also
12 his duty when requested by the council or mayor to prosecute all
13 trials before the municipal court for violation of the city ordinance
14 or offenses within the jurisdiction of said court, and he shall,
15 without being so requested, appear for the city in all appeals
16 taken to the circuit court by the city or by defendants or criminals,
17 and for his services he shall receive such compensation as the
18 council shall by ordinance provide, and in addition to such com-
19 pensation in all criminal prosecutions conducted by said city

20 solicitor where there is a conviction of the defendant, there shall
21 be taxed as of the costs a fee of not less than five dollars nor
22 more than ten dollars, which fee shall be paid to such solicitor,
23 and in all criminal cases appealed to the circuit court of Logan

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24 county, the city solicitor shall receive the same fees, in case of a
25 conviction, as are allowed prosecuting attorneys in criminal cases.

Sec. 22. The chief of police shall be an ex-officio constable within
2 the corporate limits of the city, and may execute any writ or
3 process issued by the municipal judge or any justice of the peace
4 at any place in Logan county; he shall have all of the powers,
5 rights and privileges within the corporate limits of the city in
6 regard to the arrest of persons, the collection of claims, and the
7 execution and return of process that is vested by law in a constable
8 of a magisterial district, and he shall be liable to all fines and
9 penalties, and forfeitures that a constable of a magisterial district
10 is liable to, to be recovered in the same manner and in the same
11 court that fines, penalties and forfeitures may be recovered against
12 such constable. All other police officers shall be members of the
13 police force, and shall perform their duties under the general
14 direction of the chief of police, and they shall have and possess
15 all of the rights and privileges of a constable of a magisterial dis-
16 trict while acting as police officer within the corporate limits of
17 the city.

18 The council shall determine and provide whether any police
19 officer, and if so how many, shall be appointed in addition to the
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20 chief of police herein provided for, and shall prescribe the term
21 of their services, and may on special occasions have special police
22 officers qualified to act as such for a limited time without the
23 giving of any bond.

Sec. 23. In the discretion of the council it may appoint a chief of
2 fire department, and one or more firemen, or the council may pro-
3 vide for the organization and maintenance of a fire company as
4 provided in chapter forty-eight of the Code of West Virginia, and
5 prescribe the duties, compensation and number of the fire com-
6 pany, and rules and regulations for the government of the com-
7 pany, and may provide for the using of fire equipment of the city
8 by the chief of the fire department or the fire company, if one is
9 organized under chapter forty-eight of the Code, and unless such

10 chief of the fire department is appointed, or a fire company is or-
11 ganized under chapter forty-eight of the Code, the chief of police
12 of the city shall be ex-officio the chief of the fire department, and
13 it shall be his duty to attend at all fires, and to direct the use of
14 the fire extinguishing appliances used by the city in an effort to
15 extinguish the fire.

Sec. 24. The council shall provide a city engineer whose duty
2 it shall be to perform such engineering services as is required from

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3 time to time by an order of the council, and in case any permanent
4 improvements are being made upon any of the existing streets or
5 alleys, or to any of the sewers of the city, it shall be the duty of
6 the council to have the same done under the supervision and direc-
7 tion of the city engineer, and all new streets hereafter laid off or
8 eradicated to public use within said city, and all lines of sewers
9 hereafter laid by said city, before the same is dedicated or laid, be
10 correctly surveyed by the city engineer, and a map and plan of
11 the same filed with the city clerk as a part of the records of the
12 city, and in case the city should install a water works or a water
13 plant or purchase the one now in operation in said city, all lines
14 for carrying the water installed by the city, and all improvements
15 made to said plant, shall first be submitted to the city engineer and
16 approved by him before the same shall be acted upon by the
17 council.

Sec. 25. The superintendent of streets appointed by the council
2 shall, under the direction of the council, and within the limits of
3 the money provided for his work, keep all public streets and alleys
4 clean and in constant repair, and all sewers under the city in con-
5 stant operating condition, and shall, under the direction of the
6 council, have the garbage of the city removed and burned or other-

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7 wise disposed of as directed by the council, and shall perform such
8 other duties at such times and in such manner as council may
9 authorize by general ordinance or by special direction, in writing,
10 direct.

Sec. 26. The city health officer shall perform the duties with-
2 in the corporate limits of the city of Logan, required to be per-
3 formed by the county health officer, under the general laws of
4 this state.

Sec. 27. The council shall cause to be annually made up and
2 entered in its "Minute Book", at the same itme at which county

3 courts are required to make up their annual estimate, an ac-
4 curate estimate of all sums with which the city treasurer may
5 become chargeable to such city during the current fiscal year,
6 and shall give notice of such estimate as provided by general
7 law and that at the same time that county courts are required
8 to lay their annual levy, in the same manner, the council shall
9 lay a sufficient levy to pay the current expense of the city, thus
10 estimated for the current fiscal year. The said levy shall be upon
11 all property both real and personal assessed by the city assessor.
12 The rate of levy, however, shall not exceed fifty cents and one
13 hundred dollars valuation, unless a higher rate of levy be au-

House Bill No. 448

(BY MR. LITTLETON, by request.)

[Introduced January 25, 1921; referred to the Committee on Insurance.]

Senate Bill No. 293

(BY MR. HARMAN.)

[Introduced January 25, 1921; referred to the Committee on Insurance.]

House Bill No. 448

A BILL authorizing and regulating the exchange of certain classes of reciprocal or inter-insurance contracts among individuals, partnerships and corporations; empowering corporations generally to make such contracts; regulating process in suits on such contracts; fixing certain fees; and providing penalties for violation of this act.

Be it enacted by the Legislature of West Virginia:

Section 1. Individuals, partnerships and corporations of this
2 state hereby designated as subscribers, are hereby authorized to
3 exchange reciprocal or inter-insurance contracts with each other

4 or with individuals, partnerships and corporations of other
5 states and countries providing indemnity among themselves from
6 any loss which may be insured against under other provisions
7 of the laws, excepting life insurance, employers' liability, work-
8 men's compensation and health and accident insurance.

Sec. 2. Such contracts may be executed by an attorney, agent
2 or other representative herein designated attorney, duly author-
3 ized and acting for such subscribers. The office or offices of
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4 such attorney may be maintained at such place or places as may
5 be designated by the subscribers in the power of attorney.

Sec. 3. Such subscribers so contracting among themselves shall,
2 through their attorney, file with the insurance commissioners a
3 declaration verified by oath of such attorney, or where such at-
4 torney is a corporation, by the oath of the chief officer thereof,
5 setting forth:

6 (a) The name or title adopted by such subscribers proposing
7 to exchange such indemnity contracts. Such name or title
8 shall not be so similar to any other name or title previously adopt-
9 ed by a similar organization or by any insurance corporation or
10 association as in the opinion of the insurance commissioner is
11 likely to result in confusion or deception.

12 (b) The kind or kinds of insurance to be effected or ex-
13 changed.

14 (c) A copy of the form of policy contract or agreement un-
15 der or by which such insurance is to be effected or exchanged.

16 (d) A copy of the form of power of attorney or other authori-
17 ty of such attorney under which such insurance is to be effected
18 or exchanged.

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19 (e) The location of the office or offices from which such con-
20 tracts or agreements are to be issued.

21 (f) That applications have been made for indemnity upon at
22 least seventy-five separate risks aggregating not less than one
23 and one-half million dollars, as represented by executed contracts
24 or *bona fide* application to become effective concurrently.

25 (g) That there is on deposit with such attorney and avail-
26 able for the payment of losses, a sum of not less than fifty thou-
27 sand dollars.

Sec. 4. Concurrently with the filing of the declaration provid-
2 ed for by the terms of section three hereof, the attorney shall

3 file with the insurance commissioner an instrument in writing
4 executed by him for said subscribers, conditioned that upon the
5 issuance of certificate of authority provided for in section ten
6 hereof, action may be brought in the county in which the prop-
7 erty insured thereunder is situated, and service of process may
8 be had upon the insurance commissioner in all suits in this state
9 arising out of such policies, contracts or agreements, which ser-
10 vice shall be valid and binding upon all subscribers exchanging at
11 any time reciprocal or inter-insurance contracts through such at-
12 torney. Three copies of such process shall be served and the

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13 insurance commissioner shall file one copy, forward one copy to
14 said attorney and return one copy with his admission of service.
15 Such instrument shall further provide that in all suits arising
16 in this state on account of contracts issued by such attorney for
17 the account of said subscribers, such action may be brought
18 against such attorney as attorney in fact for all subscribers at
19 such reciprocal or inter-insurance exchange, and the judgment in
20 the action shall be a judgment against and binding upon each of
21 the subscribers as their respective interests appear.

Sec. 5. There shall be filed with the insurance commissioner
2 by such attorney a statement under oath of such attorney show-
3 ing the maximum amount of indemnity upon any single risk and
4 such attorney shall, whenever and as often as the same shall be
5 required, file with the insurance commissioner a statement veri-
6 fied by his oath giving such information.

Sec. 6. There shall at all times be maintained with such at-
2 torney, as a reserve, a sum in cash or convertible securities equal
3 to fifty per cent. of the aggregate net annual deposits collected
4 and credited to the accounts of the subscribers on policies hav-
5 ing one year or less to run and pro rata on those for longer per-
6 iods, plus claim and loss reserves as required for the same kind
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7 of insurance in other cases; or in lieu thereof at the option of the
8 attorney, one hundred per centum of the aggregate net unearned
9 deposits collected and credited to the amounts of the participating
10 subscribers, plus such claim and loss reserves. Net annual de-
11 posits shall be construed to mean the advance payments of sub-
12 scribers after deducting therefrom the amounts specifically pro-
13 vided in the subscribers' agreements for expenses. Said sum
14 in reserve shall at no time be less than fifty thousand dollars, and

15 if at any time such reserve computed as provided herein and so
16 collected and credited shall not equal the amount hereby pre-
17 scribed, then the subscriber or their attorney for them, shall
18 make up any deficiency. In calculating such reserves, the amount
19 provided for in sub-division (g), section three, shall be included.

Sec. 7. Such attorney shall within the time limited for filing
2 the annual statement by insurance companies transacting the
3 same kind of business, make a report to the insurance commis-
4 sioner for each calendar year showing the financial condition of
5 the affairs at the office where such contracts were issued and shall
6 furnish such additional information and reports as may be
7 required. *Provided, however,* that the attorney shall not be re-
8 quired to file the names and addresses of any subscribers. The
9 business affairs, records and assets of such organization shall be

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10 subject to examination by the insurance commissioner at the ex-
11 pense of the organization examined.

Sec. 8. Any corporation now or hereafter organized under the
2 laws of this state shall, in addition to the rights, powers and
3 franchises specified in its articles of incorporation have full
4 power and authority to exchange insurance contracts of the kind
5 and character herein mentioned. The right to exchange such
6 contracts is hereby declared to be incidental to the purposes for
7 which such corporations are organized and as much granted as
8 the rights and powers expressly conferred.

Sec. 9. Any attorney who shall exchange any contracts of
2 indemnity of the kind and character specified in this act or any
3 attorney, agent or any person representing him, who shall solicit
4 or negotiate any application for same without the attorney first
5 complying with the foregoing provisions, shall be deemed guilty
6 of a misdemeanor and on conviction thereof shall be subject to
7 a fine of not less than one hundred dollars nor more than one
8 thousand dollars. For the purpose of organization and upon
9 issuance of permit by the insurance commissioner, powers of
10 attorney and applications may be solicited without license but
11 no attorney, agent or other person shall make any such con-
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9

12 tracts of indemnity until he shall comply with the provisions
13 of this act.

Sec. 10. Each attorney by or through whom are issued any
2 policies or contracts of indemnity of the character referred to in

3 this act, may procure from the insurance commissioner annually
1 a certificate of authority stating that all the requirements of this
5 act have been complied with and upon such compliance and
6 the payment of the fees and taxes required by this act, the in-
7 surance commissioner shall issue such certificate.

Sec. 11. In addition to the foregoing penalties and where not
2 otherwise provided, the penalty for failure or refusal to comply
3 with any of the terms and provisions of this act upon the part
4 of the attorney shall be the refusal, suspension or revocation
5 of certificate of authority or license by the insurance commission-
6 er for publication of his act, after due notice and opportunity for
7 hearing has been given such attorney, so that he may appear and
8 show cause why such action should not be taken.

Sec. 12. Such attorney in lieu of all other taxes of whatever
2 characted in this state, shall pay to the state as an annual
3 license, the sum of ten dollars and a tax of two per centum of the

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4 gross premiums or deposits collected from West Virginia sub-
5 scribers during the preceding calendar year, less all amounts
6 returned to subscribers or creditors to their accounts as savings.
7 and a tax of one-half of one per cent for support of state fire
8 marshall's department upon said amount.

Sec. 13. The making of contracts as hereinbefore provided for
2 and such other matters as are properly incident thereto shall not
3 be subject, unless specifically mentioned, to the laws of this state
4 relating to insurance concerns except as provided in this act.

House Bill No. 152

(By MR. MOORE, of Marshall, by request.)

[Introduced January 19, 1921: referred to the Committee on the
Judiciary.]

House Bill No. 152

A BILL to secure the reformation of offenders against the criminal
laws of the state and to design to make them useful citizens.

Be it enacted by the Legislature of West Virginia:

Section 1. All offenses shall be felonies or misdemeanors: of-

2 fenses which are punished by actual confinement in the peniten-
3 tiary are felonies; all other offenses are misdemeanors.

Sec. 2. Upon conviction or confession of any offense the court
2 may inquire into the age and character of the offender, whether he
3 has theretofore broken the law, and if he be a youthful offender,
4 or it may be the first offense, or his general character be good, the
5 court in his discretion, if he believe that the peace and safety of the
6 public be not endangered thereby, may suspend sentence, upon such
7 conditions as the court may impose upon the accused; as for in-
8 stance, that he be on probation for a given period, and report regu-
9 larly to some person appointed by the court to see that such of-
10 fender purges himself of his offense, by restitution to anyone in-
11 jured by his offense, as far as possible, and by exemplary conduct
12 in the future. And the court may, at any future time, within the
13 period of probation and within his reasonable discretion, have such

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14 offender brought before him for sentence, as though he was at that
15 time convicted. And in case of a youthful offender though over
16 the age of eighteen years, he may be sent to the reform school.

Sec. 3. Upon conviction of an offense which immediately prior
2 to the passage of this act would be a felony, the court may in-
3 quire into the character of the accused, and may in his discre-
4 tion, if the court believe the safety of the public be not endangered
5 thereby, sentence the offender to be confined in the jail of the
6 county in which the offense was committed, or in the jail of the
7 county where the offender has his residence, to be under the control
8 of the county board of criminal supervision hereinafter provided
9 for, to enable the offender to make restitution to those injured
10 by his offense as far as possible, and to support himself and his de-
11 pendants. The length of such sentence to be determined by said
12 county board of criminal supervision. If the board deem it unsafe
13 for the offender to be at large without a guard in the county of
14 his confinement, the offender, unless physically incapacitated, shall
15 be employed at farm labor, or at some trade, calling or profession,
16 or at labor on the county roads, under the direction of the county
17 road authorities of the county, with such provisions for his safe-
18 keeping as the county board of criminal supervision may provide.
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19 If employed, the offender shall be allowed a reasonable wage, to be
20 agreed on between his employers and such board, such wage to be
21 applied as above stated; any surplus to be paid the inmate on his

22 discharge. If the offender be found to be entirely unsafe to be at
23 large under guard, the court shall send him to the penitentiary,
24 as hereinafter provided. And no prisoner shall be discharged by
25 the board of criminal supervision until he has given satisfactory
26 assurance of his intention to obey the law, and to live an exemplary
27 life in future. And this section shall apply to all persons con-
28 victed of a misdemeanor, if sentenced to confinement in jail.

Sec. 4. There is here created a bi-partisan or non-partisan
2 county board of criminal supervision for each county, each board
3 to consist of three members, either men or women, to be appointed
4 by the judge of the circuit court of each county. It shall be the
5 duty of such board, or a majority thereof, to supervise the treat-
6 ment, employment and length of sentence of each person sentenced
7 to the county jail of their county.

Sec. 5. This committee shall have the power to appoint the
2 necessary guard or guards to secure the safety of those under their
3 care. And each member of such board, and each guard so ap-
4 pointed by them shall render an itemized statement duly verified

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5 by oath of the time actually employed by him in the discharge of
6 his duty; and the county court shall allow such compensation to
7 each as he shall be reasonably entitled to, to be paid out of the
8 county fund. And no prisoner shall be discharged from jail ex-
9 cept upon the order of the court upon the recommendation of a
10 majority of this board, given upon satisfactory assurance of the
11 prisoner's future exemplary conduct. Such board may in their dis-
12 cretion, however, allow prisoners in their charge to go upon parole
13 upon such conditions as in their discretion may seem proper, when
14 they are satisfied that the public safety is not endangered thereby.
15 This board together with the county court of each county shall
16 provide a suitable, safe and sanitary place of confinement, when
17 necessary, for those convicted. And the circuit court may enforce
18 this provision by mandamus.

Sec. 6. If upon conviction of an offense which immediately
2 prior to this act would be a felony, and upon examination into
3 the character of the offender, the court be of opinion that sentence
4 cannot safely be suspended, and that the offender cannot safely be
5 put on probation, or sentenced to jail as provided in section three
6 of this act, he shall be sentenced to the state penitentiary without
7 more saying, and the offender shall there be under the control and
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8 supervision of the warden and the state board of criminal super-
9 vision hereinafter provided for; the warden to have full control of
10 discipline, but the members of the board to have free access and
11 communication with the inmates whenever any of them so desire.

Sec. 7. There is hereby created a bi-partisan or non-partisan
2 state board of criminal supervision to consist of the governor, the
3 pardon attorney, the warden of the penitentiary, and two other
4 members to be appointed by the governor. This board shall meet
5 at least once a month, and remain in session as long as necessary,
6 to hear and decide all applications for parole or pardon. And each
7 of the appointed members shall file with the governor his oath that
8 he will faithfully discharge his duties as a member of such board
9 impartially, uninfluenced by prejudice, hatred, ill-will or dislike,
10 and without fear, favor, reward, or hope of reward. To this board
11 shall be committed the length of sentence of each and every per-
12 son sentenced to the penitentiary.

13 No person sentenced to the penitentiary shall be discharged ex-
14 cept upon the order of four out of five of the board, after he shall
15 be first thoroughly tested on parole. If he be capable of learning,
16 he shall not be discharged till he can read and write the English
17 language, and has a fair knowledge of ethics and our system of

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18 government. And to this end, the board may appoint or employ
19 teachers to instruct the inmates.

20 He shall not be discharged until he has some trade, calling, or
21 profession by which he can earn an honest living; and honest em-
22 ployment shall be found for him before he is either paroled or dis-
23 charged. No one shall be confined longer than necessary to work
24 his reformation under these requirements, and after he shall give
25 evidence on parole of his intention and ability to live an exemplary
26 life.

27 The state board of control shall find employment at reasonable
28 wages for each inmate while so confined. It may find employ-
29 ment at farm labor, on the roads, at any of the various trades,
30 callings or professions; or it may find employment at contract
31 labor for those who cannot be safely trusted or guarded without
32 the walls.

33 Each inmate shall be credited with his earnings, and after pro-
34 viding him with necessities, the warden shall hold the remainder
35 of such earnings, to be paid him on his discharge, or the warden
36 may, in any case he may think proper, disburse such earnings:

37 First—To reimburse those he has injured by his offense.

38 Second—To support his dependents.

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39 Third—Pay part to each, and any surplus to the inmate when
40 discharged.

Sec. 8. It is here made the duty of the county board of criminal supervision in each county, in conjunction with the county court of each county, to pay particular attention and give particular care to the families and dependents, if any, of those convicted of crime, and to see that they have proper education, training, employment and assistance, if necessary, for their support, and to see that these dependents become neither paupers nor criminals for want of such care and support.

Sec. 9. If any prisoner sentenced to jail proves to be unsafe to run at large, or work at large under a guard, after being confined in jail thirty days, the court may send such prisoner to the penitentiary, to be dealt with by the state board of criminal supervision, as though originally sentenced there. And the county boards and state boards shall act in conjunction with the other state and county authorities in segregating the incorrigible from the better class of prisoners.

Sec. 10. If any prisoner sentenced to the penitentiary be found worthy by the state board of criminal supervision to be allowed to return to his own or some other county, he may be sent by the

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4 state board to the county board of that county, to be dealt with as
5 though originally sentenced to jail in that county.

Sec. 11. The two members appointed by the governor on this board shall be of unimpeachable character and competent to discharge their duties under this act, and each shall receive five dollars and expenses per day for his services, to be paid monthly out of the state funds.

Sec. 12. After this act goes into effect, it shall apply to all persons under sentence for offenses, whether felonies or misdemeanors.

Sec. 13. At every general election after this act goes into effect there shall be elected by the voters of each and every county in the state a public defender, whose term of office shall be four years, and who shall receive the same salary as the prosecuting attorney of said county, and whose duty it shall be to investigate the cases of alleged offenders and make or assist in making defense for them, and in all ways assist in making this act effective.

Sec. 14. No juror otherwise eligible shall be rendered incompetent to act as such because he does not believe in capital punishment.

Sec. 15. Whenever there is a conviction of a capital offense, —that is, a conviction for murder in the first degree,—and the H. B. No. 152] 11

jury does not recommend imprisonment in lieu of capital punishment, as now provided they may do, the court may sentence the offender to be executed according to law; but sentence shall not be carried into effect until both the particular case and the general character of the offender have been fully inquired into by the board of criminal supervision of the penitentiary, and such board, including the governor, have unanimously approved the sentence.

Sec. 16. All provisions of the law inconsistent with this act are hereby repealed, and this act shall be liberally construed so as to effectuate the purpose declared in its title.

House Bill No. 519

(BY MR. HENSON.)

[Introduced January 26, 1921; referred to the Committee on Education.]

House Bill No. 519

A BILL to amend and re-enact section forty-one of chapter two of the acts of the legislature, one thousand nine hundred and nineteen, regular session, relating to district boards of education, and prescribing the qualifications for membership thereof.

Be it enacted by the Legislature of West Virginia:

That section forty-one of chapter two of the acts of the legislature of one thousand nine hundred and nineteen, regular session, be amended and re-enacted so as to read as follows:

Section 41. In each district there shall be a board of education, which shall consist of a president and two school commissioners, elected by the qualified voters of the district, and after July first, one thousand nine hundred and twenty-three, each of said two

5 school commissioners shall be of opposite politics. The commis-
 6 sioner and president who were elected at the general election in one
 7 thousand nine hundred and eighteen shall serve the full term of
 8 four years for which they were elected, and until their successors
 9 are elected or appointed, and have qualified according to law.
 10 At the general election to be held on the Tuesday after the first
 11 Monday in November, one thousand nine hundred and twenty,
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 12 and every four years thereafter, one school commissioner shall be
 13 elected; and at the general election to be held on the Tuesday
 14 after the first Monday in November, one thousand nine hundred
 15 and twenty-two, and every four years thereafter, a president and
 16 one school commissioner shall be elected. Their terms of office
 17 shall commence on the first day of July next after their election
 18 and they shall each continue in office for four years, and until
 19 their successors are elected or appointed and have qualified accord-
 20 ing to law.

House Bill No. 417

(By MR. FITCH)

[Introduced January 25, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 417

A BILL to amend and re-enact section five, chapter ninety-six of
 Barnes' code, relating to contract for interest.

Be it enacted by the Legislature of West Virginia:

That section five, chapter ninety-six, of Barnes' code of West Vir-
 ginia be amended and re-enacted so as to read:

Section 5. All contracts and assurances made directly or in-
 2 directly for the loan or forbearance of money or other thing, at
 3 a greater rate of interest than six per cent, except when such
 4 greater rate is now allowed by law, shall be void as to any excess
 5 of interest agreed to be paid, *provided*, that if such excess of in-
 6 terest agreed to be paid is greater than eight per cent per annum,
 7 then the contract shall be wholly void and no action shall be
 8 maintained thereon by the lender or any person, corporation or
 9 firm claiming under him.

House Bill No. 352

(By MR. VEACH)

[Introduced January 24, 1921; referred to the Committee on Railroads.]

House Bill No. 352

A BILL to promote the health of and to provide for the comfort and convenience of passengers and the traveling public on interurban electric lines and street railways.

Be it enacted by the Legislature of West Virginia:

Section 1. Whoever engages in the operating of interurban
2 car or cars, for a greater distance than ten miles, and does not
3 place and maintain within such car or cars, so run or operated,
4 a water closet or dry hopper closet, properly and sanitarily constructed, and suitable drinking water for the use of the passengers
5 of such car or cars, shall be fined not less than five hundred dollars
6 or more than one thousand dollars.

Sec. 2. It is hereby made the duty of the public service commission, or other commission or bureau acting in lieu thereof, to
2 enforce the provisions of this act which shall not take effect until
3 six months after its passage.

Sec. 3. All acts or parts of acts in conflict with this act are
2 hereby repealed.

House Bill No. 260

(By MR. DOWNS)

[Introduced January 21, 1921; referred to the Committee on Counties, Districts and Municipal Corporations.]

House Bill No. 260

A BILL to authorize the county court of Berkeley county to establish and maintain law library and provide for the loan thereto of certain books belonging to the state.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Berkeley county be and
2 the said county court of Berkeley county is hereby authorized
3 to establish and maintain a law library for the use of the judges
4 of the courts of said county, all attorneys at law, practicing in
5 said court and all public officers of said court or any sub-division
6 thereof or municipality therein. Said library shall be known
7 and designated as "the Berkeley county law library," and the
8 county court shall provide a location therefor, either in the court
9 house or by renting a suitable location in the city of Martinsburg.
10 The said county court of Berkeley county shall purchase law
11 books, law periodicals, stationery, supplies, furniture and equip-
12 ment for said library and for said purposes shall have authority to
13 expend money; *provided, however,* that the cost of establishing
14 said library shall not exceed the sum of five thousand dollars
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15 and the maintenance thereof shall not exceed the sum of two
16 thousand dollars per year thereafter.

Sec. 2. The county court shall appoint a committee of three
2 lawyers to purchase said library, one of whom shall be the judge
3 of the circuit court of the judicial circuit in which Berkeley
4 county is included and no law books shall be purchased for said
5 library except upon the order of said committee and the said
6 committee shall have power to make and enforce all rules and
7 regulations deemed necessary for the government of the said
8 library and the use thereof.

Sec. 3. The supreme court of appeals of West Virginia is
2 hereby authorized to loan to the said library such law books
3 within its control as are not maintained by it at the state law
4 library in Charleston, and as soon as practicable after any new
5 volume of the reports of the supreme court of appeals of West
6 Virginia, as well as the bound volumes of the acts of the legis-
7 lature have been printed, the officers charged with the distri-
8 bution of said reports and said acts shall deliver one copy of
9 each to said library and the said county court shall have the
10 authority to receive for said library any books or other property
11 by loan, gift or bequest.

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Sec. 4. For the purpose of caring for and maintaining the
2 said library, a librarian shall be appointed by the county court

3 of Berkeley county, and such librarian shall be a resident of
4 Berkeley county, whom shall hold his office at the will of the
5 county court and shall be allowed and paid such salary out of
6 the treasury of Berkeley county as the county court shall think
7 proper, and be required to give bond in such a reasonable amount
8 as shall be indicated by the county court and with such surety or
9 sureties as the said court may require.

House Bill No. 431

(BY MR. HUGUS)

[Introduced January 25, 1921; referred to the Committee on the
Judiciary, April 2, reported back amended by Committee with recom-
mendation that it do pass and ordered printed.]

House Bill No. 431

A BILL to amend and re-enact section fifteen of chapter one hundred and forty-four, Barne's code one thousand nine hundred and sixteen.

Be it enacted by the Legislature of West Virginia:

That section fifteen of chapter one hundred and forty-four of the code of West Virginia Barne's code one thousand nine hundred and sixteen, be and is hereby amended and re-enacted to read as follows:

Section 15. If any male person carnally know a female of the
2 age of sixteen years or more, not his wife, against her will by
3 force, or carnally know a female not his wife, under that age,
4 he shall be punished as follows: when the person against whom
5 the offense is committed is under the age of fourteen years, with
6 death or with confinement in the penitentiary for life, or if the
7 jury add to its verdict a recommendation for mercy, with con-
8 finement in the penitentiary for not less than five nor more than
9 twenty years; when said person is fourteen years of age or more,
10 the defendant shall be punished by confinement in the penitentiary
11 for not less than five nor more than twenty years.

Sec. 16. Any acts inconsistent herewith are hereby repealed.

House Bill No. 137

(BY MR. HEAVENER.)

[Introduced January 19, 1921; referred to the Committee on Counties, Districts and Municipal Corporations.]

House Bill No. 137

A BILL fixing the annual allowance of the prosecuting attorney of the county of Monroe.

Be it enacted by the Legislature of West Virginia:

The county court of Monroe county shall annually allow to the prosecuting attorney of said county, one thousand dollars.

All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

House Bill No. 456

(BY MR. BARNES.)

[Introduced January 25, 1921; referred to the Committee on the Judiciary.]

Senate Bill No. 283

(BY MR. GODBEY.)

[Introduced January 25, 1921; referred to the Committee on the Judiciary.]

House Bill No. 456

A BILL to amend and re-enact chapter forty-eight-a of the code of West Virginia by the addition thereto of sections twelve-a and twelve-b, relating to fire escapes and moving picture shows and theatres.

Be it enacted by the Legislature of West Virginia:

That chapter, forty-eight-a of the code of West Virginia be amended

and re-enacted by the addition thereto of sections twelve-a and twelve-b as follows:

Section 12-a. If any officer named in section eleven shall find
2 any building or other structure, of three stories or more in height,
3 except private dwellings, which by reason of its construction, use,
4 situation or for any other cause is liable to cause loss of life in the
5 event of its destruction by fire, they shall have power to order the
6 installation of fire escapes and the necessary exits thereto.

Sec. 12-b. Any officer named in section eleven shall have the
2 power to issue regulations and orders to owners and proprietors
3 of moving picture shows and theatres providing for necessary
4 exits and aisles, or any other order for the purpose of safeguard-

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5 ing lives. However, if the owner or proprietor of any building or
6 structure indicated in section twelve-a, or the owner or proprietor
7 of any moving picture show or theatre indicated in section twelve-b
8 deems himself aggrieved by an order of a subordinate officer named
9 in section eleven, he shall have the same right of appeal to the
10 state fire marshall as provided in section twelve.

House Bill No. 60

(BY MR. MURPHY.)

[Introduced January 17, 1921; referred to the Committee on the Judiciary.]

House Bill No. 60

A BILL to fix the salary of the prosecuting attorney of Clay county, West Virginia.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Clay county, West Vir-
2 ginia, is hereby authorized and empowered and shall allow and pay
3 to the prosecuting attorney thereof out of the treasury of said
4 county an annual salary of not less than fifteen hundred dollars
5 and not exceeding two thousand dollars; which salary shall be
6 paid monthly and in the same manner that the salaries of other
7 county officers are paid.

Sec. 2. All acts and parts of acts inconsistent with this act
2 are hereby repealed.

House Bill No. 112

(BY MR. LITTLETON.)

[Introduced January 19, 1921; referred to the Committee on Education.]

House Bill No. 112

A BILL to amend and re-enact section one hundred and forty-nine of chapter two of the acts of the legislature of West Virginia, regular session of one thousand nine hundred and nineteen.

Be it enacted by the Legislature of West Virginia:

Section 149. The West Virginia trades school heretofore established at Montgomery, in Fayette county, shall remain where now located and shall hereafter be known as West Virginia college and trades school, by which name it shall have and hold all the properties, funds and investments granted to said West Virginia trades school by former acts of the legislature, and by all bequests, private subscriptions, donations or otherwise, and such as it may hereafter receive from any proper source or sources. Said school shall be under the control and management of the state board of education as provided by section seven of said chapter two of the acts of the legislature of one thousand nine hundred and nineteen, regular session, and of the state board of control as provided by section four of chapter fifteen-m of Barnes' code of West Virginia of one thousand nine hundred and eighteen.

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The West Virginia college and trades school shall have such powers and privileges as have been granted by law to said West Virginia trades school, and in addition thereto the state board of education, in consultation with the president of the West Virginia college and trades school, shall provide for college courses aggregating a minimum of seventy-two semester hours or the equivalent

21 of a standard junior college course beginning with the school year
22 of one thousand nine hundred and twenty-one and one thousand
23 nine hundred and twenty-two, and shall have authority to establish
24 and maintain such college departments and divisions, as from
25 time to time may be expedient, and shall provide for the organiza-
26 tion and management thereof, and for the graduation of students
27 therefrom.

28 All students of this state shall receive instruction in any of the
29 college and vocational courses maintained in said school free of
30 tuition, and said school shall be supported in the manner provided
31 for the support of other state educational institutions.

32 All acts or parts of acts inconsistent herewith are hereby re-
33 pealed.

House Bill No. 119

(BY MR. HUGUS.)

[Introduced January 19, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 119

A BILL to amend and re-enact section seven of chapter one hundred
and twenty serial section four thousand seven hundred and nine-
teen of Hogg's code of West Virginia being chapter one hundred
and seven of the regular session of one thousand nine hundred
and seventeen in so far as the same relates to the county of Ohio.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter one hundred and twenty of Hogg's
code of West Virginia, being serial section four thousand seven hun-
dred and nineteen and chapter one hundred and seven of the acts of
the legislature of one thousand nine hundred and seventeen, in so far
as the same relates to the county of Ohio, be amended and re-enacted
so as to read as follows:

The prosecuting attorney of Ohio county with the assent of the
2 county court of Ohio county entered of record may appoint one

3 attorney to assist him in the discharge of his official duties for
 4 and during his term of office, and such assistant shall take the same
 5 oath of office and may perform the same duties as his principal;
 6 and he may be removed from office as such assistant at any time by
 7 his principal, and further he may be removed from office as such

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8 assistant by the circuit court of the county in which he is appoint-
 9 ed, for any cause for which his principal might be removed. The
 10 compensation of such assistant shall be paid out of the county
 11 treasury of Ohio county in monthly installments as other officers
 12 and shall be fixed at the sum of three thousand dollars.

13 There shall also be allowed a salary of not less than nine hun-
 14 dred dollars or more than twelve hundred dollars to be paid to a
 15 stenographer for the prosecuting attorney's office, to be paid out
 16 of the county treasury of Ohio county.

17 All acts or parts of acts inconsistent herewith are hereby re-
 18 pealed.

House Bill No. 142

(BY MR. ALESHIRE)

[Introduced January 19, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 142

A BILL to amend and re-enact section six of chapter one hundred
 and thirty-nine of Barnes' code of nineteen hundred and six-
 teen, pertaining to the lien of judgments on real estate, is-
 suance and filing of executions.

Be it enacted by the Legislature of West Virginia:

That section six of chapter one hundred and thirty-nine, be
 amended and re-enacted so as to read as follows:

Section 6. No judgment shall be a lien on real estate as
 2 against a purchaser thereof for valuable consideration without

3 notice, unless it be docketed according to the third and fourth
4 sections of this chapter, in the county wherein such real estate
5 is situate, before a deed therefor to said purchaser is delivered
6 for record, to the clerk of the county court of such county. *Pro-*
7 *vided*, that no judgment which is a lien on real estate, shall con-
8 tinue a lien on such real estate in case execution issue thereon,
9 unless the execution issued on said judgment, or a copy thereof,
10 be filed in the office of the clerk of the county court, wherein such
11 real estate is situate, within ten years from the date of said judg-
12 ment or in case other executions have theretofore been issued on

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13 said judgment, then, within ten years from the date of the last
14 execution so issued thereon. And it shall be the duty of the
15 clerk of the county court wherein such real estate is situate, to
16 note on the page of the judgment docket where such judgment is
17 docketed, the date on which said execution was issued and the
18 date of the filing of the same in said office, and for said service the
19 clerk shall receive a fee of twenty-five cents, to be paid by the per-
20 son filing such execution or copy.

House Bill No. 515

(By Mr. SOMERVILLE, by request.)

[Introduced January 26, 1921; referred to the Committee on Prohibition and Temperance; amended by the Committee and ordered printed, as amended, by the House.]

House Bill No. 515

A BILL to amend and re-enact sections three and four of chapter thirty-two-a of Barnes' code of one thousand nine hundred and sixteen, as amended by chapter one hundred and eight of the acts of one thousand nine hundred and nineteen, and sections sixteen and twenty-four of chapter thirty-two-a of the code of one thousand nine hundred and sixteen, and section thirty-seven of chapter one hundred and eight of the acts of one thousand nine

hundred and nineteen, relating to the manufacture, sale and storage of intoxicating liquors.

Be it enacted by the Legislature of West Virginia:

That sections three and four of chapter thirty-two-a of Barnes' code of one thousand nine hundred and sixteen, as amended by chapter one hundred and eight of the acts of one thousand nine hundred and nineteen, and sections sixteen and twenty-four of chapter thirty-two-a of the code of one thousand nine hundred and sixteen, and section thirty-seven of chapter one hundred and eight of the acts of one thousand nine hundred and nineteen, relating to the manufacture, sale and storage of intoxicating liquors be amended and re-enacted so as to read as follows:

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Sec. 3. Except as hereinafter provided, if any person acting
2 for himself, or by, for or through another shall sell, keep, store,
3 offer, or expose for sale; or solocit or receive orders for any liquors,
4 or absinthe or any drink compounded with absinthe, he shall be
5 deemed guilty of a misdemeanor for the first offense hereunder,
6 and upon conviction thereof shall be fined not less than one hun-
7 dred dollars nor more than five hundred dollars, and imprisoned
8 in the county jail not less than two nor more than six months;
9 and upon conviction of the same person for the second offense
10 under this act, he shall be guilty of a felony and be confined in
11 the penitentiary not less than one nor more than five years; and
12 it shall be the duty of the prosecuting attorney in all cases to as-
13 certain whether or not the charge made by the grand jury is the
14 first or second offense; and if it be a second offense, it shall be
15 so stated in the indictment returned, and the prosecuting attorney
16 shall introduce the record evidence before the trial court of said
17 second offense, and shall not be permitted to use his discretion in
18 charging said second offense, or in introducing evidence and prov-
19 ing the same on the trial; and any person, except a common carrier,
20 who shall act as the agent or employee of such seller, or person
21 so keeping, storing, offering or exposing for sale said liquors, or
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22 act as the agent or employee of the purchaser of such liquors,
23 shall be deemed guilty of such selling, keeping, storing, offering
24 or exposing for sale, as the case may be.

25 An indictment for any first offense under this section shall be
26 sufficient if in the form or effect following:

26-a State of West Virginia:

27 County of.....to-wit:

28 In the circuit court of.....county:

29 the grand jurors in and for the body of the said county of
30, upon their oaths do present that A.
31 B., within one year next prior to the finding of this indictment,
32 in the said county of....., did unlawfully sell,
33 offer, keep, store and expose for sale and solicit and receive orders
34 for liquors, and absinthe and drink compounded with absinthe,
35 against the peace and dignity of the state.

Sec. 4. The provisions of this act shall not be construed to
2 prevent any one from manufacturing (other than by "moon-
3 shine still") *from fruit grown exclusively in this state*, wine for
4 his own domestic consumption; or to prevent the manufacture
5 *from fruit grown exclusively within this state* of vinegar and
6 non-intoxicating cider for use or sale; or to prevent the manu-

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7 facture and sale at wholesale to druggists only of pure grain
8 alcohol for medicinal, pharmaceutical, scientific and mechani-
9 cal purposes, or wine for sacramental purposes by religious bodies;
10 or to prevent the sale and keeping and storing for sale by drug-
11 gists of pure grain alcohol for mechanical, pharmaceutical, medi-
12 cinal and scientific purposes, or of wine for sacramental purposes,
13 by religious bodies, or any United States pharmacopoeia or na-
14 tional preparation in conformity with the West Virginia phar-
15 macy law, or any preparation which is exempted by the provisions
16 of the national pure food law, and the sale of which does not
17 require the payment of a United States liquor dealer's tax; or
18 to prevent the purchase and use of sherry wine by wholesale
19 druggists under federal regulations, as follows: Wholesale drug-
20 gists holding federal permits may purchase and use in the manu-
21 facture of medicinal compounds, sherry wine in quantities not
22 exceeding twenty-five gallons during any period of ninety days.
23 But no druggist shall sell any such grain alcohol except for
24 medicinal, scientific, pharmaceutical and mechanical purposes,
25 or of wine for sacramental purposes, except as hereinafter pro-
26 vided, and the same shall not be sold by such druggist for medi-
27 cinal purposes, except upon a written prescription of a physician

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28 of good standing in his profession and not of intemperate habits,
29 or addicted to the use of any narcotic drug, prescribing the

30 amount of alcohol, the disease or malady for which it is pre-
31 scribed, and how it is to be used, the name of the person for
32 whom prescribed, the number of previous prescriptions given by
33 such physician to such person within the year next preceding
34 the date of such prescription, and stating that the same is ab-
35 solutely necessary for medicine, and not to be used as a beverage,
36 and that such physician, at the time such prescription was given,
37 made a personal examination of such person, and that such per-
38 son is known to such physician to be of temperate habits and not
39 addicted to the use of any narcotic drug, and only one sale shall
40 be made upon such prescription, and such prescription shall be at
41 all times kept on file by such druggist and open to the inspection
42 of all state, county and municipal officers. It shall be the duty
43 of such druggist to register in a book kept for that purpose all
44 prescriptions from physicians mentioned in this section, stating
45 the name of the party for whom prescribed, the date of the pre-
46 scription, the name of the physician by whom the prescription
47 is issued, the quantity of such alcohol and the use for which pre-

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48 scribed, and such record shall be at all times open to the same
49 inspection as such prescriptions.

50 It shall be lawful for a druggist to sell grain alcohol for phar-
51 maceutical, scientific and mechanical purposes, or wine for sac-
52 ramental purposes by religious bodies, only to any person, not a
53 minor, and who is not of intemperate habits, or addicted to the
54 use of narcotic drugs, who shall, at the time and place of such
55 sale, make an affidavit in writing signed by himself before such
56 druggist, or a registered pharmacist at the time and place in the
57 employ of such druggist, stating the quantity and the time and
58 place and fully what purposes and by whom such alcohol or wine
59 is to be used; that affiant is not of intemperate habits or ad-
60 dicted to the use of any narcotic drug; and that such alcohol
61 or wine is not to be used as a beverage, or for any purpose other
62 than that stated in such affidavit. Such affidavit shall be filed
63 and preserved by such druggist and be subject to inspection at all
64 times by any state, county or municipal officer, and a record
65 thereof made by such druggist in the record book mentioned
66 in this section, showing the date of the affidavit, by whom made,
67 the quantity of such alcohol, or wine, and when, where, for what
68 purpose and by whom to be used. Only one sale shall be made

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69 upon such affidavit, and only in the county where the same is
70 made, and no greater quantity than is therein specified. For the
71 purpose of this act, any druggist or registered pharmacist making
72 such sale shall have authority to administer such oath.

73 If any druggist, owner of a drug store, registered pharmacist,
74 clerk or employee shall upon such prescription or affidavit, or
75 otherwise, knowingly sell or give any such alcohol or wine to any
76 person who is of intemperate habits or addicted to the use of any
77 narcotic drug, or knowingly sell or give the same to any one
78 to be used for any purpose other than that named in said affidavit
79 or prescription, or who shall sell or give away any liquors without
80 such affidavit or prescription, he shall be deemed guilty of a
81 misdemeanor and punished by fine of not less than one hundred
82 nor more than five hundred dollars and confined in the county
83 jail not less than thirty days nor more than six months. In any
84 prosecution against a druggist, owner of a drug store, registered
85 pharmacist, clerk or employee, for selling or giving liquor con-
86 trary to law, if a sale or gift be proven, it shall be presumed that
87 the same was unlawful in the absence of satisfactory proof to
88 the contrary and the presentation of such prescription or affidavit
89 by the defendant at the time of the trial for such sale or gift,

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90 shall be sufficient to rebut the presumption arising from the
91 proof of such sale or gift. *Provided*, the jury shall believe, from
92 all the evidence in the case, that such sale or gift was made in
93 good faith under the belief that such prescription or affidavit
94 and statements therein were true; and, *provided, further*, that
95 such druggist, owner of a drug store, registered pharmacist,
96 clerk or employee shall have complied with all other provisions
97 of this act relating to the sale or gift; and, *provided, further*,
98 that in case of any conflict between the enforcement provisions of
99 this act and the "national prohibition act", the commissioner is
100 authorized to adopt and to issue such rules and regulations as he
101 may deem advisable for the purpose of harmonizing the enforce-
102 ment provisions of the prohibition laws.

103 An indictment against any druggist, registered pharmacist,
104 clerk or employee, for any offense committed under the provi-
105 sions of this section, shall be sufficient, if in the form and effect
106 following:

106-a State of West Virginia,

107 County of.....to-wit:

108 In the circuit court of said county:

109 The grand jurors in and for the body of the said county of
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110, upon their oaths do present that A. B.,
111 within one year next prior to the finding of this indictment, in
112 the said county of.....did unlawfully sell, give,
113 offer, expose, keep and store for sale and gift, liquors, against the
114 peace and dignity of the state.

Sec. 16. It shall be the duty of the commissioner, his deputies
2 and agents, to superintend the enforcement of all provisions of
3 this act, and of laws of this state affecting the manufacture, sale,
4 keeping, exposing or offering for sale, or giving or soliciting or
5 receiving orders for liquors, or laws connected in any way with the
6 liquor traffic, to diligently inform themselves of all violations of
7 such laws and either make report thereof to the prosecuting at-
8 torney of the proper county, who shall forthwith prosecute the
9 same as provided by law, or said commissioner, his agents or depu-
10 ties, shall make complaint of any violations of any such laws before
11 the proper court or committing justice, and conduct the prosecu-
12 tion thereof in any court in the state having jurisdiction of such
13 matters; and for the purpose of enforcing such laws, the said com-
14 missioner, his agents and deputies, shall have all the powers now
15 vested in the prosecuting attorneys of this state and the attorney
16 general thereof, and of sheriffs, their deputies, and constables and

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17 police officers of the state. And any deputy or agent employed
18 or appointed by the commissioner in the capacity of a detective
19 or police officer shall have the right to carry firearms and con-
20 cealed weapons without taking out a state license therefor. *Pro-*
21 *vided*, that nothing in this act shall be construed to take from such
22 prosecuting attorneys or the attorney general, or his assistants,
23 any of the powers now conferred upon them by law, except as
24 herein provided, or to relieve any of the said officers from any
25 duty imposed upon him by any statute of this state.

Sec. 24. The manufacture of alcohol and wine, and the sale
2 of the same by the manufacture and by wholesale druggists, shall
3 be under the supervision of the commissioner and under such rules
4 and regulations as he may from time to time prescribe.

Sec. 37. It shall be unlawful for any person to own, operate,

2 maintain or have in his possession, or any interest in, any appa-
 3 ratus for the manufacture of intoxicating liquors, commonly
 4 known as a "moonshine still," or any device of like kind or char-
 5 acter. For the purposes of this act, any mechanism, apparatus
 6 or device that is kept or maintained in any desert, secluded, hid-
 7 den, secret or solitary place, away from the observation of the
 8 general public, or in any building, dwelling-house or other place,

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9 for the purpose of distilling, making or manufacturing intoxicat-
 10 ing liquors, or which by any process of evaporation, separates alco-
 11 holic liquor from grain, molasses, fruit or any other fermented
 12 substance, or that is capable of any such use, shall be taken and
 13 deemed to be a "moonshine still"; and the owner or operator of
 14 any such "moonshine still" shall be deemed a "moonshiner." Any
 15 person owning, operating, maintaining or having in his possession,
 16 or having any interest in any moonshine still, shall be guilty
 17 of a felony, and upon conviction thereof shall be fined not less than
 18 three hundred dollars nor more than one thousand dollars, and be
 19 confined in the penitentiary not less than two nor more than five
 20 years. Any person who aids or abets in the operation or main-
 21 tenance of any moonshine still shall be guilty of a felony, and
 22 upon conviction thereof shall be fined not less than two hundred
 23 dollars nor more than five hundred dollars, and confined in the
 24 penitentiary for not less than one nor more than three years.

25 An indictment of a principal under this section shall be suffi-
 26 cient if in the form or effect following:

27 State of West Virginia.

28 County of, to-wit:

28 In the circuit court of said county:

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29 The grand jurors of the state of West Virginia, in and for the
 30 body of the county of, and now attending said
 31 court, upon their oaths do present that A. B., on the
 32 day of, 19....., and in the county of,
 33 did unlawfully and feloniously own, operate, maintain, possess, and
 34 have an interest in a certain apparatus, mechanism and device for
 35 the manufacture of intoxicating liquors, commonly known as
 35-a moonshine still, against the peace, and dignity of the state.
 35-b Any person who has in his possession any quantity of moon-
 35-c shine liquor shall be guilty of a misdemeanor, and upon convic-

35-d tion thereof shall be fined not less than one hundred dollars nor
 35-e more than three hundred dollars, and confined in the county
 35-f jail not less than thirty nor more than ninety days, *provided*,
 35-g that if any such person shall furnish sufficient evidence to con-
 35-h vict any person or persons from whom he received said moon-
 35-i shine liquor, he may be relieved from further prosecution or
 35-j punishment; and, *provided, further*, that the finding of any quan-
 35-k tity of intoxicating liquor in the possession of any person shall be
 35-l *prima facie* evidence that the same is moonshine liquor, and if the
 35-m possessor of said intoxicating liquors or the defendant, would
 35-n overcome such *prima facie* presumption, the burden of who shall
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35-o rest upon him to show that the said intoxicating liquor is
 35-p not moonshine liquor within the meaning of this sec-
 35-q tion. Sections nine, ten, eleven, twelve and thirteen, of
 36 chapter thirty-two-a of Barnes' code, one thousand
 37 nine hundred and sixteen, relating to searches and seiz-
 38 ures and procedure, shall apply to and govern the offenses
 39 under this section, so far as they are applicable; *provided*, that
 40 any person held by a justice under this section to answer for a
 41 felony, shall give a bond in the penalty of not less than one thou-
 42 sand dollars to appear at the next term of the circuit, criminal
 43 or intermediate court of the county having jurisdiction, to answer
 44 an indictment if one be preferred against him; and *provided*,
 45 *further*, that it shall be the duty of the officers to seize and forth-
 46 with destroy all moonshine stills and liquors and paraphernalia
 47 found in connection therewith.

48 All acts and parts of acts coming within the purview of this
 49 act or inconsistent herewith are hereby repealed.

House Bill No. 30

(By MR. MANNING.)

[Introduced January 17, 1921; referred to the Committee on
 Mines and Mining.]

House Bill No. 30

A BILL to require the coal operators to furnish coal to householders
 living in their vicinity.

Be it enacted by the Legislature of West Virginia:

Section 1. That upon the written request of at least twenty-five householders living in the vicinity of any coal operation, any firm, partnership or corporation engaged in the business of mining coal at such operation, shall deliver to said householders at the point of said coal operation, all coal desired by said householders for their domestic use in such amounts as desired, but they shall not be required to furnish less than one ton at any time to any person, and they shall receive for such coal not to exceed twenty-five cents per ton above the price at which they are at that time selling the same quantity of coal in carload lots.

Sec. 2. The public service commission shall have authority to enforce this act, and the penalties provided for failure to comply with the orders of said public service commission shall apply to those persons, firms, or corporations who violate this act.

House Bill No. 33

(By MR. MCPHERSON, by request)

[Introduced January 17, 1921; referred to the Committee on Railroads.]

House Bill No. 33

A BILL to provide toilets on inter-urban or electric railway cars.

Be it enacted by the Legislature of West Virginia:

Section 1. After January first, nineteen hundred and twenty-two it shall be unlawful for any corporation or person operating an inter-urban or electric railway line of five miles or more of track to use for passenger traffic any car not equipped with at least one toilet for the convenience and accommodation of passengers; and all such toilets shall be kept in sanitary condition and open and accessible to passengers, subject to the regulations of the state department of health and restrictions of incorporated cities and towns.

For every violation of the provisions of this act by any corporation or person, they shall be subject to a fine of twenty-five dollars, and any such corporation or person failing or refusing to comply

13 with the requirements of this act, may be enjoined from opera-
14 ting or using any passenger car not equipped as herein provided,
15 by any circuit court.

House Bill No. 228

(BY MR. McCLINTIC, of Greenbrier.)

[Introduced January 20, 1921; referred to the Committee on Game and Fish.]

House Bill No. 228

A BILL to protect skunks.

Be it enacted by the Legislature of West Virginia:

That it shall be unlawful for any person or persons to hunt, kill
2 or trap any skunk or pole cat in this state, that it shall be unlawful
3 for any person to have in his or her possession any pelt or raw
4 skunk hide, that it shall be unlawful for any person, firm or cor-
5 poration to buy or sell any undressed skunk hide or pelt, that it
6 shall be unlawful for any express or railway or other transportation
7 company to have in their possession for transportation any skunk
8 hide or pelt originating within the state of West Virginia.

9 Any person, firm or corporation violating any of the provisions
10 of this act shall be guilty of a misdemeanor and fined not less than
11 five nor more than twenty-five dollars for each offense and the
12 number of offenses shall be determined by the number of skunks
13 hunted, trapped or killed and the number of hides or pelts handled,
14 each act or pelt to be designated as a separate offense. Upon the
15 failure to pay the fine the person so convicted shall be confined
16 in the county jail for not less than ten days for each and every of-
17 fense.

House Bill No. 265

(BY MR. STATHERS.)

[Introduced January 21, 1921; referred to the Committee on the Judiciary.]

House Bill No. 265

A BILL to amend and re-enact section nineteen, of chapter eighty-five, of the code of nineteen hundred and sixteen, relating to suits on judgments for or against, or contracts of, decedents.

Be it enacted by the Legislature of West Virginia:

That section nineteen, of chapter eighty-five, of the code of nineteen hundred and sixteen, be amended and re-enacted to read as follows:

Section 19. A personal representative may sue or be sued upon any judgment for or against, or any contract of or with, his decedent, whether such obligation be joint, or several, or joint and several. In every action in which the decedent, if living, could have joined or been joined as plaintiff or defendant with other co-obligees or co-obligors, his personal representative may join or be joined with them as representative of his estate.

ENGROSSED

House Bill No. 401

(BY MR. MURPHY.)

A BILL to compensate the state troops or state guards also known as state scouts who rendered military service in behalf of the state and union during the late civil war after the formation of the state of West Virginia.

Be it enacted by the Legislature of West Virginia:

Section 1. That all state troops or state guards also known as state scouts who served under the state of West Virginia for a period of thirty days, or more, shall receive compensation for their services not to exceed fifteen dollars per month.

Sec. 2. This act does not include any soldier or soldiers who

Sec. 3. It shall further be enacted that the governor, adjutant
2 general and secretary of state shall compose a board called the
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3 state service commission, who shall make rules and regulations
4 for the disbursement of such funds as may be appropriated for
5 the state troops or state guards.

House Bill No. 247

13 ital, joint fund, assets or profits of any company whether incor-
 14 porated or not, or in a steamboat or other vessel, or in any adven-
 15 ture, business or undertaking.

16 *Provided, however,* that notes, certificates and bonds which are
 17 secured by a specific lien upon real or personal property, situate
 18 or taxed within this state shall not be deemed or construed to be
 19 property for the purpose of taxation up to and including an
 20 amount equal to the assessed valuation in this state of such real or
 21 personal property by which the same are secured. *Provided, fur-*
 22 *ther,* that no indebtedness, the evidence whereof is excluded from
 23 consideration as property under this section, should be deducted
 24 in determining the assessment properly chargeable against the
 25 debtor for money, credits, investments or bank stock pursuant to
 26 section sixty-seven and seventy-nine of this chapter.

House Bill No. 474

(By Mr. HUGUS, by request.)

[Introduced January 26, 1921; referred to the Committee on Medi-
 cine and Sanitation.]

House Bill No. 474

A BILL to amend section twenty-nine-d, chapter one hundred and
 fifty, of Barnes' code of one thousand nine hundred and sixteen,
 in reference to the registration of nurses.

Be it enacted by the Legislature of West Virginia:

Paragraph six, of section twenty-nine-d, chapter one hundred and
 fifty of Barnes' code for one thousand nine hundred and sixteen, be
 amended to read as follows:

That this act shall not be construed to affect or apply to the
 2 gratuitous nursing of the sick by friends or members of a family;
 3 all persons who are not qualified as graduate nurses, but who de-
 4 sire to practice what is known as "practical nursing", shall take
 5 an examination before the board of examiners hereinbefore pro-
 6 vided for, under such rules and regulations as may be prescribed by
 7 that board; such board of examiners may, however, designate two
 8 registered nurses in each hospital or city of a population of five

9 thousand or more, to make an examination of all applicants in
10 their particular city or community, and upon a satisfactory exami-
11 nation each successful applicant will be given a certificate signed
12 by the two examiners or the board of examiners, authorizing such

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13 person to practice practical nursing. Examiners will send a list
14 of such successful applicants with certificate number to the board
15 of examiners, which shall record and register all persons listed
16 thereon as practical nurses.

17 Each applicant will pay a registration fee of five dollars to the
18 board of examiners.

19 Persons failing to comply with this act within ninety days after
20 it goes into effect shall be subject to a fine of ten dollars, which
21 action may be instituted in the name of state of West Virginia,
22 in any court of a justice of the peace in the county in which the
23 violation occurred.

House Bill No. 410

(By MR. KISER, by request)

[Introduced January 25, 1921; referred to the Committee on
Taxation and Finance.]

House Bill No. 410

A BILL to provide additional compensation for civil war soldiers
who served ninety days or more in the service of the United
States during the late rebellion and providing the manner in
which payment shall be made."

WHEREAS, the United States government has provided for pay-
ment of certain compensation to disabled service men through acts
of congress of the United States; and,

WHEREAS, the state of West Virginia is desirous of paying to its
civil war veterans additional compensation.

Be it enacted by the Legislature of West Virginia:

Section 1. There shall be paid to each soldier who enlisted
2 and served in the United States army from this state during the
3 civil war or late rebellion, the sum of one hundred dollars, to

4 be paid out of the general fund of the state. The treasurer shall, as soon as practicable after this bill takes effect, ascertain, from the United States bureau of pension, or from the proper authorities of the federal government the number of said soldiers now living who enlisted and served in the service of United States from West Virginia and were honorably discharged.

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After making a correct list of said soldiers as aforesaid, said treasurer shall then pay to each soldier then living the said sum of one hundred dollars, by mailing to said soldier at his then known address a check for said amount.

Sec. 2. There is appropriated out of the treasury of the state the sum of sixty thousand dollars for the purposes of this act.

Sec. 3. The treasurer shall make a report to the next regular session of the legislature of West Virginia showing the names and addresses of persons and the amount paid under this act.

Sec. 4. All acts or parts of acts inconsistent with this act are hereby repealed.

COMMITTEE SUBSTITUTE FOR

House Bill No. 394

[April 21. From the Committee on Humane Institutions and Public Buildings, with favorable recommendation. On first reading.]

House Bill No. 394

A BILL to establish a branch of the white tuberculosis sanitarium in the southern part of West Virginia.

Be it enacted by the Legislature of West Virginia:

Section 1. The state board of control, if deemed advisable, is hereby authorized to purchase a sufficient amount of land and cause to be erected a building, or buildings, sufficient to accommodate not less than one hundred patients, in the southern part of

5 the state. The said board is hereby authorized if deemed advis-
6 able, in lieu of erecting the said building to purchase, if pos-
7 sible, any appropriate existing buildings and grounds. The cost
8 of said buildings and grounds, including necessary furniture, shall
9 not exceed seventy thousand dollars.

Sec. 2. The building and grounds above referred to shall be
2 used as a branch of the state tuberculosis sanitarium and shall
3 conform to all the rules and regulations thereof.

RE-PRINT

House Bill No. 166

(BY MR. LUSK.)

[Introduced January 19, 1921; referred to the Committee on
Labor.]

House Bill No. 166

A BILL to amend section fifteen-*h* of Hogg's and Barnes' code of
West Virginia, relating to the protection and regulation of labor,
by inserting therein, and as a part thereof, a section to be num-
bered eighty-three-*a*, serial section five hundred and forty-two-*a*
of Hogg's code, providing for the establishment and location of
Mullens hospital number four in town of Mullens, Wyoming
county.

Be it enacted by the Legislature of West Virginia:

That chapter fifteen-*h* of Hogg's and Barnes' codes, relating to the
protection and regulation of labor, be and the same is hereby amended
by inserting therein and as a part thereof, section eighty-three-*a*, serial
section five hundred and forty-two-*a* of Hogg's code, providing for
the establishment and location of Mullens hospital number four, in
the town of Mullens, county of Wyoming, in the words and figures
following:

Section 83-*a*. In addition to the hospitals mentioned in the pre-
2 ceding section, there shall be established and maintained, at the
3 expense of the state, in the town of Mullens, county of Wyoming,

4 a hospital to be known as Mullens hospital number four. The
5 state board of control shall acquire by purchase needed and suit-
6 able grounds for said hospital; contract for the erection thereof
7 and equipment therein and maintain and operate the same under
8 the general laws of the state applicable to the hospitals mentioned
9 in the preceding section, when appropriations for such purposes
10 shall have been made.

RE-PRINT

House Bill No. 184

(BY MR. HAYS)

[Introduced January 20, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 184

A BILL to regulate the method of collecting tolls charged by tele-
phone companies, and specifying penalties for violations thereof.
Be it enacted by the Legislature of West Virginia:

Section 1. Where a special charge is made for talking to a
2 person by telephone, or where a charge is made for talking to
3 a person by long distance telephone, such charge shall not be
4 collected until the person called has been reached, so that the
6 person making the call has an opportunity for conversation, and
7 no deposit shall be demanded or collection of any kind made for
8 a report on a call, only. In case it is necessary to employ a
9 messenger to reach the person called, then a reasonable charge
10 may be made or deposit demanded for services of such messenger.

Sec. 2. Every person engaged in transmitting messages by
2 telephone and making special or long distance charges for the
3 same is included in this act, and shall be liable to a fine not ex-
4 ceeding fifty dollars on conviction for violating its provisions.

House Bill No. 465

(By MR. STROTHER, by request.)

[Introduced January 26, 1921; referred to the Committee on the Judiciary.]

House Bill No. 465

A BILL to prevent disturbance of a place of business and interference therewith, and prescribing the penalty for violation.

Be it enacted by the Legislature of West Virginia:

Section 1. It shall be unlawful for any person in or upon
2 any highway, public street, sidewalk, alley, or other public place,
3 to make any loud or unusual noise, to speak in a loud or un-
4 usual tone, to cry out or proclaim, to display any banner or
5 sign, to display or distribute any badge, placard, circular or
6 handbill, or to loiter, picket or patrol, in front of, or in the
7 vicinity of any place of business or employment, for the pur-
8 pose of inducing or attempting to induce any person to quit
9 employment, or not to seek employment, or not to enter or per-
10 form service in said place of business or employment, or for
11 the purpose of inducing or attempting to induce any person to
12 refrain from doing business with, or purchasing or using the
13 goods or products of one or more manufacturers or merchants.

Sec. 2. Any person who shall violate any of the provisions
2 of section one of this act shall be guilty of a misdemeanor, and
3 shall, upon conviction thereof, in any court of competent juris-

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4 diction, be fined not less than twenty-five, nor more than one
5 hundred dollars, or imprisoned not less than one, nor more than
6 six months, or both, at the discretion of such court.

Sec. 3. Any person, firm or corporation injured or attempted to
2 be injured by any of the acts described in section one of this
3 act shall further be entitled to the aid of a court of equity in
4 preventing the commission of the acts therein set forth; and
5 such remedy in the court of equity, as aforesaid, shall be re-
6 garded as cumulative, and shall not affect the penalty provided
7 in section two hereof, nor be affected thereby.

House Bill No. 464

(BY MR. STROTHER, by request.)

[Introduced January 26, 1921; referred to the Committee on the Judiciary.]

House Bill No. 464

A BILL for the protection of the public against unwarranted strikes and lockouts, and defining what strikes and lockouts shall be considered unwarranted.

Be it enacted by the Legislature of West Virginia:

Section 1. Any strike or lockout shall be unlawful under any 2 of the following conditions:

3 (a) When the same is carried on by or in respect to em-
4 ployees whose terms of employment are fixed by the United
5 States of America, the state of West Virginia, or any county,
6 district or municipal government of the said state.

7 (b) When the same is carried on in violation of any agree-
8 ment, or for the purpose of inducing a violation of any agree-
9 ment.

10 (c) When the same is carried on in violation of any arbitration
11 award, or to induce such violation.

12 (d) When a request has not first been presented to the party
13 against whom a grievance is alleged, and a reasonable time given
14 for the consideration of such request.

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15 (e) When there is no trade dispute involving an issue of
16 direct benefit to the acting parties.

17 (f) When the same is carried on to prevent or terminate the
18 employment of any person because of membership or non-mem-
19 bership in any labor union.

20 (g) When the same is carried on to enforce demands and the
21 party against whom such demands are pending is willing to sub-
22 mit such demands to arbitration by any proper board of three or
23 more members, an equal number of the said board to be chosen by
24 each party to the dispute, and the members of the said board so
25 chosen, to select the old member.

Sec. 2. It shall be unlawful for any person, firm, corporation,
2 organization or association, wilfully to cause, further, or make ef-

3 fective any such strike or lockout, or to attempt to do so, by any
4 oft he following acts, to-wit: The inducement or attempted in-
5 ducement of any person to engage or continue in such strike or
6 lockout; the taking of any vote or issuing of any order relative to
7 such strike or lockout and favorable thereto; the payment of
8 money or furnishing of material help of any kind, or the agree-
9 ment so to do, to any person or condition that such person engage
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10 in, or continue in such strike or lockout; the stationing of pickets
11 or patrols.

Sec. 3. The state, or any political subdivision thereof, or any
2 person, firm or corporation injured or threatened with injury, by
3 anything forbidden in this act shall be entitled to all of the ap-
4 propriate civil remedies in law and equity.

Sec. 4. If any part of this act shall be adjudged by any court
2 of competent jurisdiction to be invalid, such judgment shall not
3 invalidate the remainder thereof.

ENGROSSED

House Bill No. 110

A BILL to fix the salary for the prosecuting attorney for Hardy
county, and fixing the time and manner of the payment of the
same.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Hardy county, West Virginia,
2 shall allow and pay the prosecuting attorney thereof out of the
3 treasury of said county an annual salary of eight hundred dollars,
4 which salary shall be paid monthly in same manner that the sal-
5 aries of other county officers are paid.

Sec. 2. All acts and parts of acts inconsistent with this act
1 are hereby repealed.

House Bill No. 44

(BY MR. HOWARD)

[Introduced January 17, 1921; referred to the Committee on the Judiciary.]

House Bill No. 44

A BILL to amend and re-inact section fifty-nine of chapter twenty-nine of Barnes' code of West Virginia of one thousand nine hundred and sixteen.

Be it enacted by the Legislature of West Virginia:

That section fifty-nine of chapter twenty-nine of Barnes' code of West Virginia of one thousand nine hundred and sixteen, be amended and re-enacted so as to read as follows:

Section 59. Every assessor shall ascertain and list for taxation the white persons and colored persons, over the age of twenty-one years residing in the county on the first day of the assessment year, and not exempted by the county court from taxation on account of bodily infirmity and shall include in said list all persons who remove into said county between the first day of the assessment year and the time the assessor's books are made out; but persons who pay the capitation tax in one county shall be exempted from paying the same in another for that year, but as evidence of payment must produce the capitation tax receipt when required by the assessors to do so. All acts and parts of acts inconsistent herewith are hereby repealed.

House Bill No. 62

(BY MR. BARNES.)

[Introduced January 17, 1921; referred to the Committee on the Judiciary.]

House Bill No. 62

A BILL to amend and re-enact section fifteen of chapter one hundred

and thirty-one of the code of one thousand nine hundred and sixteen, relating to new trials in civil cases.

Be it enacted by the Legislature of West Virginia:

That section fifteen of chapter one hundred and thirty-one of the code of one thousand nine hundred and sixteen be amended and re-enacted so as to read as follows:

Section 15. In any civil case, the court before which a trial
2 by a jury is had may grant a new trial, unless it be otherwise
3 specially provided. A new trial may be granted as well where
4 the damages are too small as where they are excessive. Not more
5 than two new trials shall be granted to the same party in the
6 same cause.

7 Every motion for a new trial or for direction of a verdict shall
8 be in writing, and shall specifically state the grounds therefor;
9 and upon granting a new trial or directing a verdict, the court
10 shall state in its order the grounds for its action.

RE-PRINT

House Bill No. 100

(BY MR. HUNTER)

[Introduced January 19, 1921; referred to the Committee on the Judiciary.]

Senate Bill No. 2

(BY MR. COALTER)

[Introduced January 17, 1921; referred to the Committee on the Judiciary.]

House Bill No. 100

A BILL to provide a pension for partial or full support of aged or infirm women who have no children or others legally bound to support them, and who are unable financially or physically to support themselves, and who at the time of the application for pension are bona-fide residents of the county in which the application is made, and have been for two years prior thereto.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of the several counties of

2 the state of West Virginia, shall have jurisdiction to grant pen-
3 sions in all cases coming within the terms of this act.

Sec. 2. Any aged or infirm woman may apply to the county
2 court in the county in which she is a resident, and has been for
3 one year prior thereto, and who has no children or others legally
4 bound to support her, and who is unable financially and physical-
5 ly to support herself, for a pension, and said application shall be
6 in writing, in the form of a petition, and sworn to by the appli-
7 cant, and shall set forth all matters necessary to give the court
8 jurisdiction.

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9 The correctness of said application shall be verified by two
10 credible witnesses, under oath, who shall state that they are well
11 acquainted with the applicant, and believe the facts set forth in
12 the petition to be true.

Sec. 3. If upon the filing of the petition in the manner and
2 form as above set out in section two, the county court be satis-
3 fied with the correctness of said petition, the courts shall grant
4 the relief sought, and shall enter an order to pay said applicant
5 out of the county treasury not less than fifteen dollars, nor more
6 than twenty dollars per month, and if the court be not satisfied
7 with the correctness of said petition, it may take such proof as the
8 court may think right, and then grant or reject said petition, as
9 the very right to them may appear.

House Bill No. 15

(By MR. WEISS)

[Introduced January 17, 1921; referred to the Committee on
Labor.]

House Bill No. 15

A BILL for the protection of life and property by the regulation of
the practice of professional engineering and architecture in West
Virginia.

Be it enacted by the Legislature of West Virginia:

Section 1. That within thirty days after the passage of this.

2 act, the governor, by and with the consent of the senate, shall ap-
3 point a state board of registration for professional engineers and
4 architects (hereinafter called the board), consisting of eight mem-
5 bers, not more than one of whom shall be from any one county, two
6 to serve for one year, two for two years, two for three years and
7 two for four years, and the successors of each for a term of four
8 years. The membership of the board shall include at least one
9 representative of each of the following branches: civil, mining,
10 mechanical, electrical and chemical engineering and architecture.
11 No person shall be eligible for appointment as a member of the
12 board unless he is, and has been for at least five years, a citizen
13 of West Virginia and has been continuously engaged for at least
14 ten years in the active practice of professional engineering or
15 architecture or in teaching such professions, or some branch there-
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16 of, in a reputable college or university. Not more than three
17 persons engaged in such teaching shall act as members of the board
18 at the same time. Any vacancy in the board shall be filled by ap-
19 pointment by the governor.

Sec. 2. The board shall organize by electing a president and
2 vice president who shall be members of the board, and a secretary
3 who may or may not be a member, but who shall conform to the
4 qualifications for such membership. The officers of the board
5 shall serve for the term of one year.

Sec. 3. The secretary shall receive a salary to be fixed by the
2 board, and his necessary expenses in performing his official duties.
3 He shall give bond in such sum as may be fixed by the board, with
4 sureties approved by the board, for the faithful discharge of his
5 duties. The secretary may employ such clerks and assistants as
6 may be necessary to carry out the provisions of this act, subject to
7 the approval of the board, who shall fix the salaries and compen-
8 sation of such clerks and assistants.

Sec. 4. The members of the board, except a member serving as
2 secretary, shall not receive compensation, but their necessary ex-
3 penses, while engaged in the discharge of their duties, shall be paid.
4 but no money shall be paid or authorized to be paid either for sal-
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5 aries, expenses, or other purpose in excess of the fund established
6 under the provisions of this act.

Sec. 5. The board shall have a common seal, and shall for-

2 mulate rules to govern its action. The board shall have power
3 to compel the presence of witnesses and the president and secre-
4 tary of the board shall have power to administer oaths. The board
5 shall meet at the capital twice a year, and at such other times as
6 the board may appoint. Five members shall constitute a quorum.

Sec. 6. From and after six months after the passage of this
2 act, it shall be unlawful for any person to practice professional
3 engineering or architecture, as defined in this act, or to hold pub-
4 lic office or employment involving the practice of such professions,
5 or to set or disturb boundary monuments in West Virginia unless
6 such person shall have first obtained a certificate entitling him
7 to practice professional engineering or architecture from the
8 board. Such certificate shall state whether the holder thereof is
9 registered as a professional engineer or architect. The holder of
10 such a certificate shall be known as a registered professional en-
11 gineer or architect, or, if a certificate entitling the holder thereof
12 to practice surveying only be granted, as hereinafter provided, the
13 holder of such certificate shall be known as a registered surveyor.

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14 No person residing in West Virginia shall qualify as a witness for
15 the purpose of testifying as an engineering or architectural expert
16 in regard to subjects of an engineering or architectural nature in
17 any court of the state of West Virginia unless he be a registered
18 professional engineer or architect, or, if such testimony be in re-
19 gard to the surveying or platting of land, boundary lines, mines,
20 or of a similar nature, a registered surveyor may so qualify. No
21 map or plat of any land or mine shall be accepted for record in the
22 state of West Virginia unless certified by a registered professional
23 engineer or a registered surveyor. *Provided, however,* that this
24 act shall not apply to officers holding office or officers elect, at the
25 time of the passage of this act, during the term for which they have
26 been elected, nor to engineers or architects in the employ of the
27 United States Government, but such engineers or architects shall
28 not do any engineering or architectural work in West Virginia ex-
29 cept that pertaining to their official positions unless they shall have
30 have complied with the provisions of this act.

Sec. 7. Professional engineering and architecture within the
2 meaning of this act shall embrace and include all branches of the
3 professions of engineering and architecture other than military
4 engineering. Any person who designs or makes drawings for any

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5 building, bridge, railroad, harbor, canal, dock, dam, waterway,
6 street, highway, sewer, sewage disposal plant, water works, water
7 supply, ditch, drainage system, mine, tunnel, dry dock, ship,
8 barge, dredge, crane or other floating property, steam engine, tur-
9 bine, internal combustion engine, or other mechanical structure,
10 electrical machinery and apparatus, works for the development,
11 generation, transmission, or application of power, apparatus or
12 structures for carrying out mining and chemical operations, re-
13 frigerating or heating apparatus or structures, or other works of
14 smilar nature which require for their design experience and tech-
15 nical knowledge, or who makes estimates or specifications therefor,
16 or who directs the construction of such work as engineer or archi-
17 tect or who acts as a consulting engineer or architect, or who sur-
18 veys or makes maps or plats of any county, township, city, village
19 or of land, road, lot, subdivision or addition or of any mine, tun-
20 nel, stream, or body of water, or who does any work ordinarily
21 known as civil, mining, mechanical, electrical, chemical, metallur-
22 gical, ceramic, refrigeration, heating, automotive, valuation, mu-
23 nicipal, highway, railroad, structural, hydraulic, sanitary, irriga-
24 tion or drainage engineering, architecture or marine architecture,
25 landscape engineering or architecture, or surveying, except on his

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26 own property, for his own personal use and without receiving
27 money therefor, or who offers or agrees to do any of the above
28 things or maintains a place of business for the carrying on of any
29 of the branch of the engineering or architectural professions, shall
30 be regarded as practicing professional engineering or architecture
31 within the meaning of this act. Any person doing any of the
32 things specified in this section as resident engineer, department
33 engineer, division engineer, assistant engineer, clerk of works or
34 other similar title, with authority to exercise discretion, assume
35 responsibility, devise methods, or to perform duties ordinarily del-
36 egated to such position, shall be regarded as practicing professional
37 engineering or architecture within the meaning of this act, even
38 though he be employed by or under the direction of a registered
39 professional engineer or architect.

Sec. 8. Nothing in this act shall be construed to prevent the
2 employment of assistants of grades below those named in section
3 seven of this act on any engineering, architectural, or surveying

4 work, which assistants shall not be required to hold a certificate,
 5 *provided* they are under, and report directly to a registered pro-
 6 fessional engineer or architect or a registered surveyor, who as-
 7 sumes all responsibility for their work,. Any engineer or archi-
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8 tect not residing in West Virginia may be called in consultation
 9 by any registered engineer or architect in West Virginia and shall
 10 not be required to hold a certificate to act as such consultant. Any
 11 engineer or architect not residing in West Virginia may be called
 12 as a witness to testify upon questions in regard to which he is
 13 especially qualified and shall not be required to hold a certificate
 14 to act as such witness.

Sec. 9. The board shall issue a certificate entitling the holder
 2 to practice professional engineering or architecture to any appli-
 3 cant holding lawfully a diploma showing completion of a course in
 4 any branch of engineering or architecture specified in section seven
 5 of this act, except surveying in any college or university whose
 6 curriculum is approved by the board, together with satisfactory
 7 evidence that he has had at least two years' practical experience
 8 under one or more competent professional engineers or architects;
 9 or to any member in good standing in any national engineering
 10 organization having suitable requirements for membership; or to
 11 any applicant who within one year after the passage of this act
 12 submits to the board satisfactory evidence that he has for five con-
 13 secutive years prior to the passage of this act been engaged in the
 14 active practice of such profession, except as qualified by section

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15 ten of this act, the board having, however, power to extend such
 16 period of one year at their discretion; or to any applicant who
 17 successfully passes an examination before the board to determine
 18 his fitness for such practice; the provisions of this section are sub-
 19 ject to the authority of the board to reject an applicant for cause
 20 as provided in section twelve of this act.

Sec. 10. The board may grant a certificate entitling the holder
 2 to practice land or mine surveying to any person, otherwise eligible
 3 under the provisions of section nine of this act, whose practice has
 4 been limited to such branch, or who, upon examination, satisfies
 5 the board of his fitness to practice the same; but the holder of such
 6 certificate shall not be entitled to practice branches of professional

7 engineering or architecture other than the surveying and platting
8 of land or mines.

Sec. 11. The board may issue a certificate without examina-
2 tion to any professional engineer, architect or surveyor not resid-
3 ing in West Virginia who possesses and presents a certificate from
4 another state, territory or the District of Columbia, or satisfactory
5 evidence of the possession of such a certificate, *provided* the laws
6 of such state, territory or district, requires of professional engin-
7 neers, architects, or surveyors practicing therein, qualifications
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8 equal to those required of such engineers, architects or surveyors
9 in West Virginia and *provided* equal rights are accorded by such
10 state, territory or district to registered professional engineers or
11 architects or registered surveyors of West Virginia. The fee to be
12 charged such non-resident professional engineer, architect or sur-
13 veyor shall be the same as the fee charged by that state, territory or
14 district for a like certificate to a resident of West Virginia, but if
15 such state, territory or district has fixed no specific fee for such
16 certificate, the charge shall be ten dollars.

Sec. 12. The board may reject an applicant guilty of felony,
2 misdemeanor, misrepresentation, perjury or fraudulent methods of
3 practice or may, after proper hearing, revoke a certificate for the
4 same cause. At least one month's notice shall be given to the
5 party at interest before such hearing is given and he shall have the
6 right to be present with or without counsel.

Sec. 13. An affirmative vote of not less than five members of
2 the board shall be required to authorize the issue or revocation of
3 a certificate.

Sec. 14. The board shall keep a record of all its proceedings
2 and a register of all applicants for certificates, giving the name,
3 age, place of residence, educational and other qualifications,
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4 whether or not an examination was required, and whether the
5 application was rejected or a certificate granted. The books and
6 register of the board shall be *prima facie* evidence of all matters
7 recorded therein. A schedule showing the names and places of
8 business of all registered professional engineers, architects and
9 surveyors shall be filed and maintained by the secretary of the
10 board in the office of the auditor of state, who shall keep such
11 schedule open to public inspection. The secretary shall furnish

12 certified copies of any certificate on receipt of the fee hereinafter
13 prescribed for such copies, and such certified copies shall be ac-
14 cepted in any court of West Virginia as *prima facie* evidence of
15 the statements contained therein.

Sec. 15. The fee for consideration of an application for a cer-
2 tificate with or without examination shall be ten dollars. In case
3 the board denies the issuance of a certificate to an applicant, the
4 registration fee deposited shall be returned by the board to the
5 applicant. Certificates of registration shall expire on the last day
6 of the month of June following their issue or renewal and shall be-
7 come invalid on that date unless renewed. It shall be the duty of
8 the secretary of the board to notify by mail every person registered
9 hereunder of the date of the expiration of his certificate and the
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10 amount of the fee required for its renewal for one year; such no-
11 tice shall be mailed at least one month in advance of the date of
12 the expiration of said certificate. Renewal may be affected at
13 any time during the month of June by the payment of a fee of
14 two dollars to the secretary of the board. The failure on the part
15 of any registrant to renew his certificate annually in the
16 month of June as required above shall not deprive such person of
17 the right of renewal thereafter, but the fee to be paid for the re-
18 newal of a certificate after the month of June shall be increased
19 ten per cent for each month or a fraction of a month that payment
20 for renewal is delayed; *provided, however*, that the maximum fee
21 for a delayed renewal shall not exceed twice the normal fee. All
22 fees shall be paid in advance to the secretary of the board, and by
23 him covered into the state treasury to the credit of a fund hereby
24 established for the use of the board, which fund shall not be ap-
25 propriated for any other purpose.

Sec. 10. The compensation of the secretary and other em-
2 ployees and the expenses of all members and officers of the board
3 and all expenses proper and necessary in the opinion of the board
4 for the discharge of its duties shall be paid out of said fund, when
5 properly appropriated, upon the warrant of the auditor of state,

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6 issued upon requisition signed by the president and secretary of the
7 board, subject to the limitations provided in section four of this
8 act.

Sec. 17. Every registered professional engineer or architect

2 and every registered surveyor shall display his certificate in a con-
3 spicuous position in his place of business.

Sec. 18. The board shall establish rules and regulations for
2 administering its duties and carrying into effect the provisions
3 of this act, but such rules and regulations shall not be inconsistent
4 with any provision of this act or any statute of West Virginia.

Sec. 19. Any person who issues, authorizes, signs, uses or pre-
2 sents any fraudulent evidence that he or any other person is enti-
3 tled to receive a certificate, or swears to any false statement for
4 such purpose or who fraudulently impersonates a registered pro-
5 fessional engineer or architect or a registered surveyor shall be
6 guilty of a misdemeanor, and upon conviction thereof shall be
7 fined in any sum not exceeding one thousand dollars and not less
8 than one hundred dollars, or imprisoned in the county jail not
9 more than one year nor less than thirty days.

Sec. 20. Any person practicing professional engineering,
2 architecture or surveying in this state, as hereinbefore defined, in
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3 violation of the provisions of this act, shall be deemed guilty of a
4 misdemeanor, and shall be fined not less than twenty dollars nor
5 more than five hundred dollars, or shall be imprisoned in the
6 county jail not less than thirty days nor more than one year, or
7 both, at the discretion of the court.

Sec. 21. Such fine, when collected, shall be paid into the fund
2 for the use of the board.

Sec. 22. The secretary of the board is charged with the duty of
2 enforcing this act. If he shall have knowledge that the act has
3 been or is being violated, he shall investigate the matter, and upon
4 probable cause appearing, shall file a complaint and prosecute the
5 offender. The attorney general of the state of West Virginia
6 shall be the attorney for the board. It shall be his duty or the
7 duty of any prosecuting attorney, when requested by such secre-
8 tary, to take charge of and conduct such prosecution.

Sec. 23. All acts and parts of acts inconsistent herewith are
2 hereby repealed.

House Bill No. 460

(By Mr. BARNES.)

[Introduced January 25, 1921; referred to the Committee on the Judiciary.]

House Bill No. 460

A BILL to amend and re-enact section one hundred and sixty-four of chapter fifty of the code of one thousand nine hundred and sixteen.

Be it enacted by the Legislature of West Virginia:

That section one hundred and sixty-four of chapter fifty of the code of West Virginia be amended and re-enacted so as to read as follows:

Section 164. The appeal shall not be granted by the justice unless within ten days after the judgment is rendered or revived, bond with good security, to be approved by the justice, in a penalty double the amount of the judgment, is filed with him, with condition to the effect that the person proposing to appeal will perform and satisfy any judgment which may be rendered against him by the circuit court on such appeal, or if he does not wish to stay the execution on such judgment, with condition to pay the costs on such appeal if the judgment appealed from be affirmed. In case there be judgment before the justice against the plaintiff for costs only, and the plaintiff desires to appeal, the bond shall be for costs, conditioned as aforesaid, and in a penalty not

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13 exceeding one hundred dollars. In suits for the forcible or unlawful entry upon land, or for the unlawful detention of real estate, if judgment be rendered for recovery of possession of the premises, either with or without damages for detention, the bond shall be in a penalty double the amount of the damages, where judgment has been rendered for damages for the detention, together with an amount sufficient, in the opinion of the justice, or of the circuit court or judge thereof, when the appeal is granted by such court or judge, to cover one year's rent of the premises. In such suits where the judgment is not for damages for detention, the bond shall be in a penalty equal to an amount sufficient, in the opinion of the justice, or of the circuit court or judge thereof,

25 when the appeal is granted by such court or judge, to cover one
26 year's rent of the premises, and an additional sum of not less than
27 fifty or more than one hundred dollars.

28 And at the time of filing of either of the bonds aforesaid the
29 appellant shall deposit with the justice five dollars to be trans-
30 mitted with the papers to the clerk of the circuit court, to be
31 applied to the payment of costs and fees in said circuit in said
32 action, and no appeal shall be effective unless and until said
33 deposit is made.

7 school purposes, shall if necessary for carrying on the schools,
8 be retained; all other buildings together with lands held in con-
9 nection therewith, shall with the consent of the county super-

2 [Enrolled H. B. No. 377

10 intendent of schools be sold at public auction to the highest re-
11 sponsible bidder, by the board of education, on proper legal no-
12 tice and on such terms of sale as the board may order, and the
13 proceeds of such sale shall be placed to the credit of the build-
14 ing fund of the district; *provided*, that in rural districts the
15 grantor of such lands, his heirs or assigns, shall have the right,
16 at such sale, to purchase said land, exclusive of mineral rights,
17 and buildings thereon, at the same price for which it was sold,
18 plus legal interest. Said board, with the consent of the county
19 superintendent and by the same method prescribed for the sale
20 of school buildings and lands, may also lease for oil or gas or
21 other minerals any lands or school sites owned in fee by it, the
22 rental or other proceeds of any such lease to be placed to the credit
24 of the new building fund of the district.

(BY MR. PIERSON, by request.)

[Introduced January 25, 1921; referred to the Committee on
Immigration and Agriculture.]

A BILL to amend and re-enact all of chapter sixty-two-b of Barnes' code of one thousand nine hundred and sixteen, and also as amended and re-enacted by chapter forty-four of the acts of the legislature of one thousand nine hundred and seventeen, providing for the collection and analysis of samples of commercial fertilizers, providing for tags showing analysis thereof, and regulating the sale of such other materials used for manurial purposes and providing penalty for violation thereof.

Be it enacted by the Legislature of West Virginia:

That all of chapter sixty-two-b of Barnes' code of one thousand nine hundred and sixteen and also as amended by chapter forty-four of the acts of the legislature of one thousand nine hundred and seventeen, be amended to read as follows:

Section 1. For the purpose of this act, the term "fertilizer" shall be held to mean any article, substance, or mixture applied to the soil for the purpose of increasing the productiveness thereof, excepting only the dung of domestic animals, when sold as such, without brand, name or trademark, and burnt lime and ground limestone and marl when sold with or without brand, name or trade-mark; and the term "person" shall be held to include corporations, companies, societies and associations, whether acting through an agent or servant.

Sec. 2. Every person who shall offer or expose for sale or sell in this state any fertilizer, shall, before the same is sold, offered or exposed for sale, file with the commissioner of agriculture an affidavit clearly and truly setting forth the name, brand or trade-mark under which the fertilizer is to be sold, the name of the manufacturer, jobber or importer, the place of manufacture and the composition of the fertilizer, including the percentum of every constituent relied upon as contributing to the value of the fertilizer, and the materials from which said constituents are derived, said statements as to materials shall be quantitative; provided, that when the manufacturer, jobber or importer of any fertilizer shall file the affidavit required by this section, no agents or dealers selling the same fertilizer for him under his name and brand shall be required so to do.

The affidavit required by this section shall be made annually, but may be made at any time for the calendar year, and may be filed in the month of December for the year following.

Sec. 3. Every bag, barrel or other package of fertilizer sold, offered or exposed for sale in this state, shall have securely and conspicuously affixed thereto a label certified by the commissioner of agriculture, carrying the affidavit provided for by section two of this chapter, the brand of fertilizer, the net weight of the package; the name and address of the manufacturer, jobber or importer, provided that no fertilizer in which the sum total of phosphoric acid, nitrogen and potash in available form is less than fourteen per cent may be offered for sale within this state. The label shall

10 be furnished by the commissioner of agriculture, who shall receive
11 pay therefor at the rate of forty cents per ton of fertilizer; *pro-*
12 *vided* that this act shall not apply to fertilizer materials sold to
13 fertilizer manufacturers to be prepared or treated by themselves
14 and resold.

Sec. 4. Whenever any fertilizers in car load lots are consigned
2 to any shipping point in this state, the consignor shall imme-
3 diately notify the commissioner of agriculture by mail, giving
4 date of consignment, name of consignee and destination. The
5 commissioner of agriculture, in person or by a deputy, shall take
6 samples of any fertilizer and for this purpose is authorized to enter
7 during business hours, any store room or other places where fertil-
8 izers are sold, offered or exposed for sale. The said commissioner
9 shall cause the said sample or samples so taken and samples sub-
10 mitted for dealers or farmers according to the rules and regula-
11 tions prescribed by the commissioner of agriculture to be analyzed
12 by practical methods upon the official oath of the analyst free of
13 charge and certify the result to the person furnishing the same
14 and publish the results. Any sample or samples so analyzed fall-
15 ing five per cent below their guaranteed quantity of soluble plant
16 food, shall as to such brand or brands be barred from sale in this
17 state for the year in which such brand or brands are licensed for
18 sale, upon the written notice by the commissioner of agriculture
19 to the manufacturer, jobber or importer selling such brand or
20 brands in this state.

Sec. 5. The commissioner of agriculture shall promptly deposit
2 with the treasurer of the state all moneys collected under this act
3 and shall draw upon the same as needed to meet all expenses
4 incurred on account of the requirements of this act, and any
5 money remaining after all of said expenses have been paid shall
6 be expended by the said commissioner by and with consent of the
7 governor; in the discharge of his duties in behalf of agriculture in
8 this state, the said commissioner shall seek to make the inspection
9 of fertilizers hereby intrusted to him as helpful as possible to the
10 purchaser of fertilizers in this state and is hereby authorized to
11 make such rules and regulations as may be necessary to carry into
12 effect the full intent and meaning of this act; the said commis-
13 sioner shall report promptly to the prosecuting attorney, of the
14 county, in which the offense was committed, any violation of this
15 act and all failures to comply therewith and a copy of any label,

16 statement or tag required to be filed with the said commissioner
17 or prepared by him and any analysis made or caused to be made
18 by him when duly certified by the said commissioner shall be
19 admissible in evidence to the same extent as if it were his deposi-
20 tion taken in the manner prescribed by law for the taking of
21 depositions, in any prosecution or suit for any violation of the
22 provisions of this act.

23 Any manufacturer, dealer or agent who shall sell, offer or expose
24 for sale in this state any fertilizer without first having complied
25 with the requirements of this act regarding such fertilizer, or
26 who shall use tax tags the second time, or any person who shall
27 receive or remove any fertilizer without its having been registered,
28 branded and tagged as required by this act, shall be guilty of a
29 misdemeanor and be subject to penalties prescribed under this
30 act.

Sec. 6. Any person who shall violate any of the provisions of
2 this act or who shall fail to comply therewith, shall be guilty of a
3 misdemeanor and on conviction thereof shall be fined not less
4 than twenty dollars and not more than one hundred dollars for the
5 first offense, and not less than fifty dollars and not more than five
6 hundred dollars for each subsequent offense.

7 *Provided, however,* that all tags issued by the commissioner of
8 agriculture as hereinbefore provided and not used at the time this
9 act became operative, shall be redeemed by the said commissioner
10 and other tags issued in lieu thereof complying with the require-
11 ments of this act.

Sec. 7. All acts or parts of acts inconsistent with this act are
2 hereby repealed.

House Bill No. 451

(BY THE COMMITTEE ON AGRICULTURE)

[Reported April 20, 1921, read a first time and ordered to second
reading.]

House Bill No. 451

Be it enacted by the Legislature of West Virginia:

That chapter sixty-two-b of the code of West Virginia of nineteen

hundred and six is hereby amended and re-enacted so as to read as follows:

Section 1. For the purpose of this act, the term "fertilizer" shall be held to mean any article, substance or mixture applied to the soil for the purpose of increasing the productiveness thereof, excepting only the dung of domestic animals, when sold as such, without brand, name or trade mark, and burnt lime and ground limestone and marl when sold with or without brand, name or trade mark; and the term "person" shall be held to include corporations, companies, societies, and associations, whether acting through an agent or servant.

Sec. 2. Every person who shall offer or expose for sale or sell in this state any fertilizer, shall before the same is sold, offer or expose for sale, file with the commissioner of agriculture an affidavit clearly and truly setting forth the name, brand or trade-mark under which the fertilizer is to be sold, the name of the manufacturer, jobber or importer, the place of manufacture and the

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composition of the fertilizer, including the percentum of every constituent relied upon as contributing to the value of the fertilizer, and the materials from which said constituents are derived, said statements as to materials shall be quantitative; *provided*, that when the manufacturer, jobber or importer of any fertilizer shall file the affidavit required by this section, no agents or dealers selling the same fertilizer for him under his name and brand shall be required so to do.

The affidavit required by this section shall be made annually, but may be made at any time for the calendar year, and may be filed in the month of December for the year following.

Sec. 3. Every bag, barrel, or other package of fertilizer sold, offered or exposed for sale in this state, shall have securely and conspicuously affixed thereto a label certifying by said commissioner that the amount of tax required by this act has been paid on said fertilizer, and that the manufacturer thereof has complied with the provisions of this act; the said labels shall be furnished by said commissioner, who shall receive pay therefor at the rate of forty cents per ton of fertilizer; and further each bag, barrel or other package of fertilizer sold, offered or exposed for sale in this state shall have attached to it a tag bearing the brand

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11 nam of the fertilizer, the net weight of the package, the name and
12 address of the manufacturer, and the guaranteed analysis of the
13 fertilizer set out as required in the affidavit required in section
14 two; *provided*, that no mixed fertilizer in which the sum total of
15 phosphoric acid, nitrogen and potash in available form is less than
16 twelve percent or no fertilizer containing phosphoric acid alone in
17 which the available phosphoric acid is less than fourteen per-
18 cent may be sold or offered for sale within this state; *provided*,
19 that this act shall not apply to fertilizer materials sold to ferti-
20 lizer manufacturers to be prepared or treated by themselves and
21 re-sold.

Sec. 4. The commissioner of agriculture, in person or by dep-
uty, shall take samples of any fertilizers on sale in the state and
for this purpose is hereby authorized to enter during business
hours any store room or other place where fertilizers are sold,
offered or exposed for sale; the said commissioner shall cause the
said samples to be analyzed according to methods of the associ-
ation of official agricultural chemists, official at the time and shall
publish the results; any purchaser of fertilizers within the state
may take a sample of the same in accordance with rules and regu-
lations of the commissioner of agriculture and if the said commis-

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11 sioner has reason to believe that the fertilizer is not as guaranteed
12 in the affidavit, he shall cause the sample to be analyzed free of
13 charge and certify the results to the person forwarding the same.

Sec. 5. The commissioner of agriculture shall promptly deposit
with the treasurer of the state all moneys collected under this act
where money shall become a part of the general state fund; in
the discharge of his duties in behalf of agriculture in this state;
the said commissioner shall seek to make the inspection of ferti-
lizers hereby intrusted to him as helpful as possible to the pur-
chasers of fertilizers in this state and is hereby authorized to make
such rules and regulations as may be necessary to carry into effect
the full intent and meaning of this act; the said commissioner
shall report promptly to the prosecuting attorney of the county
in which the offense was committed, any violations of this act and
all failures to comply therewith and a copy of any label, statement,
or tag required to be filed with the said commissioner or prepared
by him and any analysis made or caused to be made
by him when duly certified by the said commissioner

16 shall be admissable in evidence to the same extent as if it were
17 his deposition taken in the manner prescribed by law for the
18 taking of depositions, in any prosecution or suit for any violation
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19 of the provisions of this act.

20 Any manufacturer, dealer or agent who shall sell, offer or ex-
21 pose for sale in this state any fertilizer without first having com-
22 plied with the requirements of this act regarding such fertilizer,
23 or who shall use tax tags the second time, or any person who shall
24 receive or remove any fertilizer without its having been registered,
25 branded and tagged as required by this act, shall be guilty of a
26 misdemeanor and be subject to penalties prescribed under this
27 act.

Sec. 6. Any person who shall violate any of the provisions
2 of this act or who shall fail to comply therewith, shall be guilty
3 of a misdemeanor and on conviction thereof shall be fined not
4 less than twenty dollars and not more than one hundred dollars for
5 the first offense, and not less than fifty dollars and not more than
6 five hundred dollars for each subsequent offense.

Sec. 7. Any tags heretofore issued by commissioner of agri-
2 culture and the director of the West Virginia agricultural ex-
3 periment station and not used at the time this act takes effect
4 shall be redeemed by the said commissioner and other tags issued
5 in lieu thereof in compliance with the requirements of this act.

Sec. 8. All acts or parts of acts in conflict with this act are here-
2 by repealed.

ENGROSSED

House Bill No. 329

(BY MR. HEROLD)

A BILL to amend and re-enact section nine of chapter sixty-three of
Hogg's code of nineteen hundred and thirteen, relating to par-
ties prohibited from marrying, and adding thereto sections
nine-a, nine-b, nine-c, and nine-d, providing that certain per-
sons suffering with venereal disease be prohibited from marrying,
and providing penalties therefor, and conferring power upon the

public health council to regulate such matters; all to read when amended and added to. as follows:

Be it enacted by the Legislature of West Virginia:

That section nine of chapter sixty-three of Hogg's code, of nineteen hundred and thirteen, for West Virginia, be amended and re-enacted and that sections nine-*a*, nine-*b*, and nine-*c* and nine-*d*, all relating to persons prohibited from marrying, and conferring powers upon the public health council of West Virginia to regulate such matters, be added thereto, all to read when amended and added to, as follows:

Section 9. It shall be unlawful for a man to marry his mother,
 2 grand-mother, step-mother, sister, daughter, grand-daughter, un-
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 3 cle's wife, uncle's daughter, half-sister, aunt, aunt's daughter,
 4 son's wife, wife's daughter, or her grand-daughter, or step-daugh-
 5 ter, brother's daughter, sister's daughter, or wife of his brother's or
 6 sister's son; or for a man to marry *any one* at a time when he
 7 knows or has reasonable cause to know that at the time of his mar-
 8 riage, he is suffering from syphilis, gonococcus infection or chan-
 9 croid in the infectious stage of any of said diseases, or in a stage of
 10 syphilis whereby said disease could be transmitted to the issue of
 11 any marriage.

Sec. 9-a. It shall be unlawful for any county clerk, or other
 2 official authorized by law to issue marriage licenses, to issue a
 3 marriage license to any male person, until such person has filed
 4 with his application for said license, a medical certificate, to be
 5 hereinafter provided for, which shall show that a careful and
 6 thorough clinical examination, and laboratory tests, made within
 7 ten days prior to making application for license as aforesaid, fails
 8 to disclose any evidence of the presence of syphilis, gonococcus in-
 9 fection, or chancroid in the infectious stage of any of said diseases,
 10 or a stage of syphilis, whereby said disease could be transmitted
 11 to the issue of marriage, should one be consummated by the appli-
 12 cant.

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Sec. 9-b. It shall be the duty of the public health council of
 2 West Virginia to prepare rules and regulation necessary to carry
 3 out the requirements for medical examinations as herein contem-
 4 plated, which rules and regulations may be amended from time to
 5 time as may seem expedient, and shall provide for, and appoint
 6 local medical examiners, prescribe their qualifications and duties

7 hereunder, and the fees to be charged or received by said exam-
8 iners for making examinations hereunder, and shall designate one
9 or more laboratories within the state wherein tests shall be made
10 as contemplated hereunder, and shall fix the charges for making
11 such tests, which fees shall in no case exceed five dollars for mak-
12 ing a medical examination, or more than three dollars for making
13 a laboratory test, and to make any and all other rules and regula-
14 tions needed to carry out the provisions of this act.

Sec. 9-c. If any man marry in violation of any provision of sec-
2 tion nine of this act as amended, he shall, if no other punishment
3 is prescribed by law, be punished by a fine of not less than one
4 hundred nor more than five hundred dollars, and shall be confined
5 in jail for a period of not less than three and not more than six
6 months.

Sec. 9-d. All provisions of this act in relation to medical ex-
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2 aminations, and certificates of freedom from disease, and marry-
3 ing when so diseased shall take effect on the first day of January
4 one thousand nine hundred and twenty-two; and all other parts
5 and provisions herein shall take effect as provided by general law.

ENGROSSED

House Bill No. 74

(BY MR. DEULEY.)

A BILL providing for the appointment of an assistant prosecuting
attorney of Brooke county, West Virginia, and fixing the salary
of such assistant; and repealing all acts and parts of acts in-
consistent with this act.

Be it enacted by the Legislature of West Virginia:

Section 1. The prosecuting attorney of said county may
2 designate, and by and with the advice and consent of the said
3 county court, appoint some competent attorney as assistant prose-
4 cuting attorney of said county, and said county court may, in its
5 discretion pay such assistant prosecuting attorney such reasonable
6 salary for his services as such assistant as said court may deem
7 proper, but such salary shall not exceed the sum of one thousand

8 two hundred dollars per annum. Such salary shall be paid to
 9 such assistant monthly, out of the county treasury, and in the
 10 same manner as the salary of other county officers is paid. Such
 11 assistant shall take the same oath and perform the same duties
 12 required by law of his principal. He may be removed from office

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13 at the will of his principal, or for misconduct or neglect of duty.
 14 In case such assistant shall be removed the vacancy may be filled
 15 as herein provided for his appointment. It shall always be
 16 discretionary with said court whether such assistant is appointed,
 17 and it may at any time by order entered of record, stop the
 18 payment of the salary of such assistant.

Sec. 2. All acts and parts of acts inconsistent with this act
 2 are hereby repealed.

House Bill No. 463

(BY MR. WYATT.)

[Introduced January 25, 1921; referred to the Committee on Judiciary.]

A BILL to amend and re-enact serial section two hundred and fifty-nine, chapter forty-five of Barnes' code of one nine hundred and sixteen, relating to the admission of girls to the industrial home for girls.

Be it enacted by the Legislature of West Virginia:

That serial section two hundred and fifty-nine, chapter forty-five of Barnes' Code for one nine hundred and sixteen, be amended and re-enacted so as to read as follows:

Section 259. It shall be the duty of the justice of the peace,
 2 mayor or other authority, when committing any girl to said home,
 3 in addition to the commitment, to annex the name and residence
 4 of the witnesses examined, the substance of the testimony given on
 5 which the adjudication was founded, as well as the name and residence of the girl, the name of her parents, and their residence, if
 6 known. Any girl who may be found incorrigible, or pregnant,
 7 or suffering with venereal disease shall be segregated one class
 8 from the other, and from the other inmates of said institution, and
 9 shall be given proper medical attention and care, and the state
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House Bill No. 443

(By MR. STROTHER)

[Introduced January 25, 1921; referred to the Committee on the Judiciary.]

House Bill No. 443

A BILL to provide for the revision and recodification of the general laws of this state.

Be it enacted by the Legislature of West Virginia:

Section 1. The supreme court of appeals shall present to the governor the names of ten competent persons who are residents of this state, from which list the governor shall appoint three persons, who shall constitute a commission, and whose duty it shall be to revise, recodify and annotate the general statutes of this state, and to make a complete index of the same. Said commissioners shall report their progress to the governor from time to time, and, when their work is completed, present the same to the legislature for its action thereon.

Sec. 2. Each of said commissioners is hereby authorized to employ a competent stenographer to assist them in their work as such commissioners, for which they shall be allowed the sum of one hundred and fifty dollars per month, and to employ not more than two draftsmen or revisors. Said commissioners and any such draftsmen or revisors appointed shall each receive compensation at the rate of six thousand dollars per annum, for the time act-

ually spent by them on the work aforesaid, which compensation shall be payable monthly out of the state treasury upon warrant to be issued by the governor.

Sec. 3. Said commission shall have authority to purchase and procure such supplies and printing as the nature and needs of its work may require.

Sec. 4. The said commissioners and revisors shall distinguish, by appropriate typographical devices, changes in the law suggested by them by way of amendment, and changes suggested by them merely to secure harmony and consistency in the existing law.

11 board of control shall provide such necessary buildings and ar-
12 rangements for the admission, treatment and care of such incor-
13 rigible, pregnant or dismissed girls committed to said institution.

House Bill No. 394

(BY MR. WYSONG.)

[Introduced January 25, 1921; referred to the Committee on
Humane Institutions and Public Buildings.]

House Bill No. 394

A BILL to establish a branch of the white tuberculosis sanitarium in
Mercer county.

Be it enacted by the Legislature of West Virginia:

Section 1. The state board of control is hereby authorized to
2 purchase a sufficient amount of land and cause to be erected a
3 building, or buildings, sufficient to accommodate not less than one
4 hundred patients, in Mercer county, or the southern part of the
5 state. The said board is hereby authorized, if deemed advisable,
6 in lieu of erecting the said building to purchase, if possible, any
7 appropriate existing buildings and grounds. The cost of said
8 buildings and grounds, including necessary furniture, shall not
9 exceed seventy thousand dollars.

House Bill No. 440

(BY MR. STROTHER.)

[Introduced January 25, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 440

A BILL authorizing and empowering the governor to remove from
office any sheriff who fails to execute the laws, maintain order or
to sufficiently exert his authority.

Be it enacted by the Legislature of West Virginia:

Whenever in the judgment of the governor any sheriff fails to
2 execute the laws, maintain order, or efficiently exert the authority
3 imposed in such sheriff by the laws of the state, the governor may
4 summarily remove such sheriff and appoint another in his stead.

COMMITTEE SUBSTITUTE FOR

House Bill No. 58

(BY THE COMMITTEE ON RAILROADS)

A BILL to require railroads to provide safe and convenient caboose
cars on freight trains, and imposing a penalty for failure so to do.

Be it enacted by the Legislature of West Virginia:

Section 1. That it shall be unlawful for any railroad com-
2 pany, corporation, firm, individual, receiver or trustee, operating a
3 standard guage railroad as a common carrier in the state of West
4 Virginia, to run or permit to be run over its tracks, except in
5 yard limits and in transfer service, a train of one or more cars,
6 other than a passenger train, without having attached thereto a
7 caboose car, excepting cases of emergency occurring on the road
8 which will not permit a compliance of this act; and, *provided*,
9 *further*, that the provisions of this act shall not apply to light en-
10 gines.

Sec. 2. Said caboose car whenever built shall not be less than
2 twenty-one feet in length, exclusive of platform at each end, which
3 shall not be less than two feet in width and shall be constructed with
4 a door in each end and with eight windows in the body of the
5 car, and shall be equipped with two four-wheel trucks and an emer-
6 gency brake valve in the body of the car within reach of the
7 cupola, and shall have a cupola with four windows, and shall be
8 of a constructive strength of a sixty-thousand pound capacity
9 freight car; *provided*, that the provisions of this act shall not ap-
10 ply to any caboose cars now in service on any railroad within this
11 state.

Sec. 3. Such railroad company, corporation, firm, individual,

2 receiver or trustee, operating standard gauge railroads in this
3 state as a common carrier, shall equip for service in accordance
4 with the provisions of this act all caboose cars hereafter built.

Sec. 4. Any such railroad company, corporation, firm, indi-
2 vidual, receiver or trustee operating a standard gauge railroad
3 in the state of West Virginia as a common carrier violating any of
4 the provisions of this act shall be guilty of a misdemeanor, and
5 upon conviction thereof shall be fined one hundred dollars for each
6 offense.

Sec 5. *Provided*, that the provisions of this act shall not
2 apply to any such railroad company, corporation, firm, individual,
3 receiver or trustee operating a standard gauge railroad in this
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4 state, as a common carrier, which railroad may now or hereafter
5 have either of its terminals in this state, nor to any standard
6 gauge railroad operated as a common carrier which is not more
7 than fifty miles in length.

Sec. 6. Prosecutions under this act shall be made by the
2 prosecuting attorney of the state in any court of competent
3 jurisdiction in any county or municipal corporation, in or through
4 which such railroads may have run the train thus improperly
5 equipped.

Sec. 7. An emergency for the comfort and convenience of the
2 train crews being declared to exist, this act shall be effective on
3 and after its passage.

House Bill No. 360

(By MR. HUGUS)

[Introduced January 24, 1921; referred to the Committee on Mil-
itary Affairs.]

House Bill No. 360

A BILL to provide compensation for disabled ex-service men.

Whereas, the United State government has provided for payment to disabled service men, certain compensation as provided for in cer-
tain acts of congress of the United States; and

Whereas, the state of West Virginia is desirous of paying to its disabled service men additional compensation;

Be it enacted by the Legislature of West Virginia:

There shall be paid to each ex-service man who was at the time of his induction into the military service of the United States a bona fide resident of the state of West Virginia, compensation amounting to fifty per cent of the amount paid by the United States government to such disabled ex-service men. Such compensation shall be paid from the general funds of the State. The treasurer shall, at the first of each month, or as soon thereafter as is possible, secure from the treasurer of the United States or the bureau of war risk insurance, or such department of the United States government which is charged with the payment of compensation to disabled ex-service men, a certified list of all ex-service men eligible as above, who have received for the previous

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13 months payments from the Federal government under disability clauses of the war risk act, for disability incurred during the world war, and the amount paid such ex-service men by the Federal government. He shall then pay to each man on such list an amount equal to fifty per cent of the amount shown thereon to have been paid by the United States government.

The list secured by the treasurer shall be conclusive as to the eligibility of any ex-service man to receive compensation under this act.

Service men who are drawing compensation from the Federal government, but who, by reason of disability incurred during the war, have not been discharged from military service of the United States, are eligible hereunder.

"Ex-service men", as used under this act, shall include soldiers, sailors, marines, nurses, and such other persons, male or females, and only those, who were in the military service of the United States during the World War and who are entitled to and drawing compensation under provisions of the war risks acts of the Congress of the United States.

Persons who were citizens of West Virginia at the time of their induction into the military service, but who are now receiving compensation of any form on account of their disability from some other state of the United States, shall not be eligible hereunder.

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36 The treasurer shall submit an annual report to the legislature
37 of West Virginia showing the names and addresses of persons and
38 the amounts paid each under this act.

39 This act shall be effective ninety days from passage.

House Bill No. 345

(BY MR. McCLINTIC, of Greenbrier)

[Introduced January 24, 1921; referred to the Committee on the Judiciary.]

House Bill No. 345

A BILL to amend and re-enact sections sixteen and sixty, and add thereto section one hundred and one of Barnes' code of one thousand nine hundred and sixteen, relating to qualifications for voters, assistance of disabled voters to vote, examinations of voters, duties of registrars and poll clerks.

Be it enacted by the Legislature of West Virginia:

That sections sixteen and sixty be amended and there be added section one hundred and one of Barnes' code of one thousand nine hundred and sixteen so as to read as follows:

Section 16. The male and female citizens of the state shall be
2 entitled to vote at all elections held within the precincts of the
3 counties in which they respectively reside, but no person who is
4 a minor, or who cannot read and write in the English language, or
5 of unsound mind, or a pauper, or who is under conviction of trea-
6 son or a felony, or bribery in an election, or who has not been a
7 resident of this state for one year, or of the county in which he
8 offers to vote for sixty days next preceding such election, who is
9 not at the time of election, an actual *bona fide* resident of the elec-
10 tion precinct in which he offers to vote, shall be permitted to vote

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11 at such election, while such disability continues; and no person in
12 the military, marine or naval service of the United States shall be
13 deemed a resident of this state, by reason of his being stationed
14 therein; nor shall any person in the employment of any incor-
15 porated company of this state be deemed a resident of any

16 county, or of any election precinct therein, by reason of being
17 employed in said county or election precinct.

Sec. 60. Any voter who declares or indicates to the poll clerks
2 that by reason of physical disability he is unable to prepare his
3 ballot, may declare his choice of candidates to the poll clerks, who,
4 in the presence of the voter and in the presence of each other, and
5 on request shall prepare his ballot by indicating on the ballot the
6 names the voter desires to vote for. Any poll clerk who shall de-
7 ceive any voter in selecting or preparing any ballot, or prepare the
8 same in any other way than requested by the voter, shall be guilty
9 of a felony, and on conviction thereof, shall be imprisoned in the
10 penitentiary for not less than two nor more than five years.

Sec. 101. That before any person shall be registered, the reg-
2 istrar or registrars shall require that said applicant for registra-
3 tion be required to write from dictation, or from printed matter
4 certain sentence or sentences in the English language and having
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5 written said sentences or sentence said applicant shall read said
6 writing using the English language in so doing.

7 Said writing shall be in a legible hand and said reading shall be
8 intelligible. The registrar or registrars shall not require that said
9 reading or writing used for the test above mentioned shall be of
10 a technical character, but it shall be equivalent to that used in the
11 reading lessons in the second grade of the graded schools of this
12 state or that used in the newspapers which are in common circula-
13 tion in the community in which said applicant for registration
14 lives. Said examination may be required of a voter by any or all
15 of the poll clerks at the time the voter applies for his ballot if there
16 exists in the mind of any poll clerk any doubt as to the ability of
17 said voter to meet the requirements above stated.

18 In no instance shall said voter under this test be required to in-
19 terpret or give an explanation of any sentence which he may be re-
20 quired to read or write.

21 All acts and parts of acts inconsistent with the provisions of
22 this act are hereby repealed.

RE-PRINT

House Bill No 354

(By MR. HERSMAN, of Calhoun.)

[Introduced January 24, 1921; referred to the Committee on Immigration and Agriculture.]

House Bill No. 354

A BILL to abolish the department of state government known as the department of agriculture as designated in sections one and two, of chapter fifteen-d of Barnes' code of one thousand nine hundred and sixteen and the repeal of sections three, four, five, six and seven.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four, five, six and seven of chapter fifteen-d Barnes' code of one thousand nine hundred and sixteen be and are hereby repealed.

House Bill No. 408

(By MR. BISER.)

[Introduced January 26, 1921; referred to the Committee on Forestry and Conservation.]

Senate Bill No. 334

(By MR. HARMAN, by request.)

[Introduced January 26, 1921; referred to the Committee on Immigration and Agriculture.]

House Bill No. 408

A BILL creating the office of commissioner of forestry, prescribing his appointment, his qualifications, his compensation, and his duties.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created the office of commissioner

2 of forestry who shall be *ex-officio* state game and fish warden,
3 and shall be appointed by and serve during the pleasure of
4 the governor. Such commissioner shall be above the age of twen-
5 ty-five years, well informed as to forests and forest condidtions
6 of this state. He shall receive an annual salary of three
7 thousand dollars per year, payable as provided by law.

Sec. 2. The said commissioner shall be provided with suit-
2 able offices at such suitable place as he may, select with the
5 ty-five years, well informed as to forests and forest conditions
4 an annual salary of fifteen hundred dollars per year, one field
5 deputy who shall receive an annual salary of fifteen hundred
6 dollars per year, and one stenographer, who shall receive an
7 annual salary of nine hundred dollars.

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Sec. 3. The said commissioner may, subject to the state board
2 able officers, at such suitable place as he may, select with the
3 instruction of those people of the state who may desire to study
4 forestry, to the end that knowledge of the subject may be more
5 widely disseminated; such school to be under the direction of
6 said commissioner. But no appropriation shall be made for such
7 school in excess of the sum of three thousand dollars.

Sec. 4. The said commissioner shall adopt such reasonable
2 rules and regulations for the prevention and spread of fires in for-
3 est and timber lands as may be necessary, and all persons failing
4 or refusing to comply with such rules and regulations shall be
5 guilty of a misdemeanor and fine not exceeding five hundred
6 dollars at the discretion of the court wherein such person may
7 have been tried. It shall be the duty of the said commissioner
8 to enforce the laws now or that may hereafter be enforced in
9 this state relating to forestry, game and fish. The members of
10 the department of public safety when not otherwise needed for
11 the public safety or the quelling of riots shall be under the direc-
12 tion of the said commissioner. All the duties now performed
13 by the state game, fish and forest warden under statutes now
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14 in force and not inconsistent with this act shall be performed
15 by the said commissioner.

Sec. 5. All acts and parts of acts inconsistent with this act
2 are hereby repealed.

ENGROSSED

House Bill No. 370

A BILL to authorize the county court of Mingo county to establish and maintain a dental clinic, for all resident children in said county, under the age of sixteen years, to lay the necessary levies to employ dentists and other help, to purchase equipment and supplies, and to prescribe rules and regulations for the government of said clinic.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Mingo county, is hereby authorized and empowered to establish and maintain, in said county, as herein provided, a dental clinic, for the benefit of all resident children in said county, under the age of sixteen years and to prescribe rules and regulations for the government of said clinic.

Sec. 2. Said county court is authorized to appoint for a term of four years, from the first day of July after this act shall take effect, and every four years thereafter, a competent dentist. licensed to practice dentistry in the state of West Virginia, who shall have had at least five years experience and who is a member

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in good standing of the West Virginia dental society, who shall be known as county director of dental clinic, and fix his salary, and said county director may be removed as provided by section seven of chapter seven of the code of West Virginia.

Sec. 3. Said county court is authorized to purchase and furnish all equipment, supplies and materials that may be necessary to establish and maintain said dental clinic, and pay for the same out of the funds hereinafter provided; and to prescribe rules and regulations for the government and management of said dental clinic.

Sec. 4. Said county court is authorized to lay a levy, not to exceed ten cents on every one hundred dollars of valuation of the taxable property in the county, according to the last assessment thereof, for the year one thousand nine hundred and twenty, and each succeeding year thereafter, to pay the expenses and cost of establishing and maintaining said clinic, which shall be known as the dental clinic fund.

Sec. 5. Said county director shall, with the approval of the

2 county court, employ as many dentists as may in his judgment be
3 necessary for the successful conduct of said clinic, who shall be in
4 good standing in their profession, and licensed to practice dentistry
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5 in the state of West Virginia; said county court shall fix the sal-
6 aries of said dentists, and they shall be subject to the direction and
7 control of said county director, and may be removed or discharged
8 by him at any time he may deem advisable.

Sec. 6. Said county director shall employ, with the approval
2 of the county court, such clerks, assistants and other help as
3 may in his judgment be necessary and required for the proper and
4 successful conduct and management of such dental clinic, and he
5 shall have authority to discharge and discontinue the services of
6 said clerks, assistants and other help at any time, but the salaries
7 of such employees shall be fixed by said county court.

Sec. 7. Said county court may require said county director to
2 keep books of account, and such other records and make such re-
3 ports, from time to time, as may be prescribed by the court, and
4 all dentists, clerks, assistants and help employed as herein pro-
5 vided, shall furnish the county director with such reports as he
6 may require.

Sec. 8. All persons employed under this act, shall be paid
2 monthly out of the fund hereinbefore provided for, upon requis-
3 tion issued by the county director in the manner prescribed by the
4 county court.

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Sec. 9. The county superintendent of schools, the boards of
2 education, the district superintendents and teachers, and all other
3 persons employed in said county in connection with school work,
4 shall assist and co-operate with said county director, and all per-
5 sons employed by him in said clinical work.

Sec. 10. The county court shall not lay the levy herein pro-
2 vided for until authorized by the voters of the county at a general
3 or special election to be held as provided for in section seven of
4 chapter twenty-eight-a, of the code of West Virginia.

COMMITTEE SUBSTITUTE FOR

House Bill No. 301

(BY THE COMMITTEE ON HUMANE INSTITUTIONS AND PUBLIC BUILDINGS.)

[Reported April 14, 1921.]

House Bill No. 301

A BILL to dispose of the present existing poor farms and to establish in their stead a place of reception for the poor under the control of the state.

Be it enacted by the Legislature of West Virginia:

Section 1. That the governor of the state of West Virginia be and is hereby authorized to designate certain existing state officers, or commissions of boards, or such members of said commissions or boards or state officers as he may select to constitute a board, said board to be known, when so selected, as the state infirmary board, said board to exist and function as such until the next regular session of the West Virginia legislature.

Sec. 2. The expenses of the members of said board while on duty shall be met from funds already provided by law for the conduct of the work in which said state officers, commission or boards are now engaged.

Sec. 3. Said state infirmary board shall make or cause to be made a complete survey of all the county infirmaries of the state, similar to the survey made by the state mental hygiene commission in one thousand nine hundred and twenty, *provided* the

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work need not be repeated in the infirmaries which were included in the survey of one thousand nine hundred and twenty.

After having made such survey said board shall decide to what institutions of the state the various classes of inmates in the county infirmaries belong. After having made such decisions as above specified, then said board shall decide as to whether or not there is a demand for one or more state infirmaries.

Sec. 4. After having determined the number of state infirmaries necessary, then said board may, if it deems advisable and to the best interests of the state, designate one or more of the present existing county poor farms as state infirmaries, or if this be not feasible and advisable then said board shall make such

6 other recommendations as in its judgment is for the best inter-
7 ests of the state.

Sec. 5. If said board deems it advisable, it may recommend
2 that the present county infirmaries be disposed of and outline
3 a plan for so doing and make recommendations as to how the
4 counties shall dispose of their infirmaries and as to how a dis-
5 position of the funds so derived shall be conserved. If in its
6 judgment, any of the poor farms can be used by the state for
7 other institutions to advantage, it shall so report and outline a
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8 plan whereby the state may secure said infirmaries or poor farms
9 and outline the plan for re-imbursing the county therefor.

Sec. 6. In the event said board deems it advisable to locate
2 and erect and maintain one or more state infirmaries it shall
3 outline a plan for locating, erecting and maintaining such in-
4 stitutions.

Sec. 7. Said board shall make its report to the governor of
2 this state on or before January first, one thousand nine hundred
3 and twenty-three, and the governor shall submit said report with
4 his recommendations to the next regular session of the legislature
5 of one thousand nine hundred and twenty-three.

House Bill No. 109

(By MR. McCauley, by request)

[Introduced January 19, 1921; referred to the Committee on the
Judiciary.]

A BILL to amend chapter thirtl-two-a of the code of West Virginia
of one thousand nine hundrred and sixteen, known as Barnes'
code, relating to prohibition, by adding thereto section thirty-
seven.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-two-a of the code of West Virginia of
one thousand nine hundred and sixteen, known as Barnes' code, be
amended as follows:

Section 37. It shall be the duty of any sheriff, constable and
2 town sargeant in this state, whenever any person is found by him
3 under the influence of intoxicants, forthwith to take such per-

4 son into custody and take him before a justice of the peace in
5 the county where said person is so found. The justice shall
6 proceed at once to an examination of said person upon oath, re-
7 quiring him to disclose where he got his intoxicants; and in the
8 event said person refuses or fails to make such disclosure the
9 justice shall commit him to the jail of the county until such
10 time as he shall make the same; and if in the opinion of the
11 justice it shall be necessary or proper to do so, he shall recognize

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12 the person for his appearance as a witness before the grand jury
13 of the county at the next regular term of the circuit court.

14 Any citizen of this state who shall find a person intoxicated
15 may go before a justice of the peace and make complaint of
16 the same, whereupon said justice shall issue a warrant requir-
17 ing the person so found intoxicated, to be forthwith brought
18 before him by any sheriff or constable, and upon his appearance
19 the same proceeding shall be had as provided in the first part
20 of this section.

21 When any person so brought before a justice for examination
22 is in such a state of intoxication that in the opinion of the
23 justice he is not capable of testifying intelligently, the justice
24 shall adjourn the hearing for such time as he may think proper
25 to allow said person to sober up.

26 Upon the examination of any person brought before a justice
27 under this section the justice shall enter upon his docket his
28 statement as to how and where and when he got the intoxicants,
29 and a duly certified copy from said docket may be presented to
30 the grand jury and considered by them as evidence against any
31 person charged therein as furnishing said intoxicants.

House Bill No. 197

(BY MR. FOUT.)

[Introduced January 20, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 197

A BILL to regulate the presentation and exhibition of moving
pictures.

Be it enacted by the Legislature of West Virginia:

Section 1. That hereafter it shall be unlawful to present in
2 any moving picture theatre in this state or exhibit to the public
3 any film or picture which shall present nudity, cruelty or crime.

Sec. 2. Cruelty is herein defined as any action resulting in
2 physical injury or which is a menace to health, limb or life.

Sec. 3. Nudity is herein defined as less clothing than is proper
2 to be worn on the street of any town, city, village or country, or in
3 any moral, public gathering.

Sec. 4. The owners, agents and employees of such theatre
2 guilty of the hereinbefore mentioned offense, shall be severally
3 and individually liable.

Sec. 5. The penalty for the aforesaid offense shall be not less
2 than a fine of one hundred dollars, or more than one thousand
3 dollars, or imprisonment of six months in the county jail, or both
4 fine and imprisonment, at the discretion of the court.

House Bill No. 398

(By MR. BUTTS)

[Introduced January 25, 1921; referred to the Committee on Roads
and Internal Navigation.]

House Bill No. 398

A BILL to amend and re-enact section one hundred and thirty-seven
of chapter sixty-six of the acts of the legislature of one thousand
nine hundred and seventeen, regular session, relating to good
roads, and the distribution and expenditure of fees collected from
license taxes on motor vehicles.

Be it enacted by the Legislature of West Virginia:

That section one hundred and thirty-seven of chapter sixty-six of
the acts of the legislature of one thousand nine hundred and seventeen
be amended and re-enacted so as to read as follows:

Section 137. All fees collected under the provisions of this act
2 shall be paid by said state road commission to the state auditor

3 and by him placed to the credit of the state road fund. *Provided*
 4 that seventy-five percent of the money collected from license tax
 5 fees on motor vehicles shall be returned to the counties in pro-
 6 portion to the amount collected from each county, to be expended
 7 by the county courts thereof upon county roads other than "Class
 8 A" roads. And, *provided, further*, that the money collected from
 9 the license tax fees on motor vehicles returned to the counties, as
 10 herein provided, shall be equitably distributed in such counties, in
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11 proportion to the amount of license taxes collected, among the mu-
 12 nicipal corporations and the residue of said county.

13 All acts and parts of acts inconsistent herewith are hereby re-
 14 pealed.

House Bill No. 424

(By MR. AVIS, by request)

[Introduced January 25, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 424

A BILL to repeal chapter one hundred and twenty-one, acts of one
 thousand nine hundred and fifteen, relating to official court re-
 porter for the seventh judicial circuit.

Be it enacted by the Legislature of West Virginia:

Section 1. That chapter one hundred and twenty-one of the
 2 acts of the legislature of one thousand nine hundred and fifteen,
 3 entitled "An act providing for the appointment and compensation
 4 of the official court reporter for the seventh judicial circuit," be,
 5 and the same is hereby repealed.

House Bill No. 268

(By MR. HUGUS.)

[Introduced January 21, 1921; referred to the Committee on
 Labor.]

House Bill No. 268

A BILL creating a "Children's Code Commission," prescribing its powers and duties, and providing for penalties for the violation of this chapter.

Be it enacted by the Legislature of West Virginia:

Section 1. There shall be, and there is hereby created a children's code commission of West Virginia.

The children's code commission shall consist of five members who shall be appointed by the governor, and who shall have and possess the powers and duties provided in this chapter.

On or before the first day of June, one thousand nine hundred and twenty-one, the governor shall appoint five commissioners who shall be citizens and residents of this state. Said commissioners shall immediately enter upon their duties and hold office for five years thereafter.

The commission shall appoint one of its members as chairman thereof.

The commission shall elect its own secretary. It shall be the duty of the secretary to keep a full and true record of all proceedings of the commission and all books and records; to issue all

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necessary process, returns and notices. The secretary may administer oaths in all parts of the state, so far as the exercise of such power is properly incidental to the performance of his duty or that of the commission.

The members of this commission shall receive no salary or compensation for their services as such, but shall receive traveling expenses when such travel is incurred in the performance of their duties.

Sec. 2. This commission shall prescribe the rules of procedure and for taking evidence in all matters that may come before it.

Sec. 3. This commission is hereby given power to enter, inspect and examine the premises, properties, and records of all schools, factories, homes for children, institutions, and places of business where children under the age of sixteen years are cared for, educated, trained, detained or employed.

This commission is hereby given power to hold public hearings, issue process requiring attendance of persons to testify before its hearings, examine witnesses, and to make such other inquiries as

9 it may deem necessary to ascertain the true and actual conditions
10 affecting the child life of this state.

11 This commission is hereby given power to employ the services
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12 of such agents as it may deem necessary for the carrying out of
13 the purposes of this act, and there is hereby appropriated out of
14 the public funds not otherwise appropriated, the sum of five
15 thousand dollars for each of two years, for use in defraying the
16 expenses of this commission, said expenses to include the employ-
17 ment of agents, payment of traveling expenses to members of this
18 commission, payment for printing and stationery, and such other
19 just and reasonable expenditures as the commission may order.

Sec. 4. The duties of this commission shall be to study and ex-
2 amine the conditions existing in this state which affect the welfare
3 of children, to prepare a digest of the laws of this state regarding
4 children, and to recommend to the legislature of this state, at its
5 next regular session, such additions, amendments and omissions
6 to the statute law of the state affecting children as will simplify,
7 clarify, standardize, improve and co-ordinate the provisions now
8 contained in the laws of this state, and to investigate causes of
9 juvenile delinquency and crime.

House Bill No. 293

(BY MR. THOMPSON.)

[Introduced January 21, 1921; referred to the Committee on
Humane Institutions and Public Buildings.]

House Bill No. 293

this state at Belington in the county of Barbour and the erection
thereat of a capitol and other necessary public buildings for the
use of the state, and to repeal all acts inconsistent therewith.

Be it enacted by the Legislature of West Virginia:

Section 1. From and after the first day of January, one thou-
2 sand nine hundred and twenty-three, the permanent seat of gov-
3 ernment of this state shall be at Belington in the county of
4 Barbour.

Sec. 2. Immediately after this act takes effect it shall be the
2 duty of the board of public works to select and acquire by gift or
3 purchase a suitable site on which to erect the capitol and other
4 necessary public buildings for the use of the state. Said board
5 shall employ a competent architect to make all the necessary plans
6 and specifications for a fire proof capitol building and such
7 other necessary public buildings on the site so acquired, at a total
8 cost of not to exceed five million dollars.

9 The said board may let said work in one or more contracts as
10 it may elect, but all contracts for material to be purchased or

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11 work to be performed in the said construction shall be let, after
12 publication of reasonable notice, to the lowest responsible bidder,
13 and to be paid for, including site, out of monies appropriated
14 therefor, from time to time as provided by law.

Sec. 3. As soon as possible after the first day of January,
2 one thousand nine hundred and twenty-three, the governor shall
3 cause all the books, papers, records and other personal property
4 of the state, including the state library, pertaining to the several
5 departments of the government, to be removed to the permanent
6 seat of government at Belington, the expense of which shall be
7 paid out of the contingent fund.

Sec. 4. All acts or parts of acts inconsistent herewith are
2 hereby repealed.

House Bill No. 509

(BY MR. FLYNN.)

[Introduced January 26, 1921; referred to the Committee on Education.]

House Bill No. 509

A BILL to transfer to the state board of control for the use of West Virginia university, the state rifle range farm situate in Portland district, Preston county, on the east side of Cheat river, containing about two hundred acres.

Be it enacted by the Legislature of West Virginia:

Section 1. That the governor and board of public works is hereby authorized, empowered and instructed to transfer to the state board of control, for the use of West Virginia university, all that certain tract or parcel of land known as the state rifle range farm, situate in Portland district, Preston county, on the east side of Cheat river, and containing about two hundred acres, together with all buildings, machinery, equipment and other materials thereon.

Sec. 2. The said farm described in this act, shall be operated by the college of agriculture, for the purpose of making demonstrations in the best methods of farming; for carrying on investigations or experiments, which may be for the improvement of agriculture in the state; for holding boys' and girls' camps or institutes; for the purpose of rifle range and camps for state

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cadets for West Virginia university, and for other purposes authorized and approved by the state board of control.

Sec. 3. The said farm shall be operated under the general direction of the state board of control, in the same manner prescribed by law for the management of other farms, or property owned by the state, and under its control.

Sec. 4. All acts or parts of acts inconsistent with the provisions of this act, are hereby repealed.

House Bill No. 162

(BY MR. HINER, by request.)

[Introduced January 19, 1921; referred to the Committee on the Judiciary.]

House Bill No. 162

A BILL to amend and re-enact section fifteen of chapter one hundred and forty-four of the code of West Virginia, defining rape, and providing penalties therefor, and adding thereto sections fifteen-a, fifteen-b and fifteen-c, defining other offenses related thereto, and providing penalties therefor.

Be it enacted by the Legislature of West Virginia:

Section 15. If any person over fourteen years of age, carnally
2 know a female of the age of sixteen years or more, against her
3 will by force, or carnally know a female child under the age of
4 sixteen years, with or without her consent, he shall be punished
5 with death, or by confinement in the penitentiary as follows: If
6 the jury, upon a trial of an indictment under this section, return
7 a verdict of guilty merely, the accused shall be punished with
8 death; but if the jury add to such verdict that the accused be
9 punished by confinement in the penitentiary, he shall be con-
10 fined therein not less than seven nor more than twenty years.

Sec. 15-a. If any female over the age of sixteen years volun-
2 tarily have sexual intercourse with any male child under the age
3 of eighteen years, she shall be confined in the penitentiary for not
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4 less than one nor more than five years, as a punishment therefor,
5 or by confinement in jail for a period of not less than three
6 months nor more than six months, and by a fine of not less than
7 one hundred nor more than five hundred dollars; and any such
8 male child having such intercourse as above set out, if he be above
9 the age of ten years, shall be classed as a "Delinquent Child", as
10 contemplated in and under section one of chapter one hundred
11 and eleven, of the acts of the legislature of West Virginia, in
12 nineteen hundred and nineteen, and shall be dealt with as therein
13 provided for such delinquent children.

Sec. 15-b. If any person over ten years of age and under
2 fourteen years of age, carnally know any female child under
3 sixteen years of age, such person shall be classed as delinquent
4 child as contemplated under the acts of the legislature of West
5 Virginia, in nineteen hundred and nineteen above referred to, and
6 shall be dealt with as provided therein; and any such female child,
7 if she be above the age of ten years, and consent to the act, shall
8 be classed as such a delinquent child, and may be dealt with as
9 therein provided.

Sec. 15-c. If any male child over fourteen years, and under
2 eighteen years of age, have sexual intercourse with any female
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3 over the age of sixteen years with her consent, he shall be classed
4 as a "delinquent child" as above contemplated, and shall be dealt
5 with accordingly. And any male person over the age of ten years,

6 and under eighteen years of age, and every female child over the
7 age of twelve years and under sixteen years of age shall, upon
8 being found to be venereally infected with gonorrrhea or
9 chancroid, in an infectious stage, be classed as delinquents as
10 contemplated under chapter one hundred and eleven of the acts
11 of the legislature in one thousand nine hundred and nineteen, and
12 may be dealt with as therein provided.

House Bill No. 276

(BY MR. DAUGHERTY, of Wirt.)

[Introduced January 21, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 276

A BILL amending chapter one hundred and nineteen of section one,
act of one thousand nine hundred and one, relating to obtaining
a license to practice law in the courts of this state.

Be it enacted by the Legislature of West Virginia:

Section 1. Any person desiring to obtain a license to practice
2 law in the courts of the state must appear before the county court
3 of the county in which he has resided for the last preceding year
4 and prove to the satisfaction of such court that he is a person of
5 good moral character, that he is twenty-one years of age, that he
6 has resided in such county for one year next preceding the date
7 of his appearance; and upon such proof being made, the court
8 shall make and enter an order on its record accordingly. The
9 supreme court of appeals shall prescribe and publish rules and
10 regulations for the examination of all applicants for admission to
11 practice law, which shall include the period of study and degree
12 of preparation required of applicants previous to being admitted,
13 as well as to the method of examination, whether by the court
14 or otherwise. And the supreme court of appeals may upon the
15 production of a duly certified copy of the order of the county

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16 court, hereinbefore mentioned, and upon being satisfied that the
17 applicant has shown upon an examination, conducted in accord-

18 ance with such rules and regulations, that he is qualified to prac-
19 tice law in the courts of this state, and upon being further satis-
20 fied that such rules and regulations have been complied with in
21 all respects, grant such applicant a license to practice law in the
22 courts of this state, and such license shall show upon its face
23 that all the provisions of this section and of the said rules have
24 been complied with: *provided*, that any person who shall pro-
25 duce a duly certified copy of such order of any county court of
26 this state, and also a diploma of graduation from the law school
27 of West Virginia university, University of Chicago, Columbia
28 university, Cornell university, George Washington university,
29 Harvard university, University of Michigan, Ohio State uni-
30 versity, University of Virginia, Washington and Lee university, or
31 Yale university, shall upon presentation thereof in any of the
32 courts of this state be entitled to practice in any and all courts of
33 this state, and the order so admitting him shall state the facts per-
34 taining to the same. Every applicant for the examination requir-
35 ed by this section shall pay a fee of five dollars, to be applied to
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36 the payment of the costs and charges of conducting said examina-
37 tion.

House Bill No. 383

(BY MR. WEISS, by request.)

[Introduced January 25, 1921; referred to the Committee on the Judiciary.]

A BILL to require newspapers to publish financial statements, delinquent lists and legal notices of every description, at the rate provided by law; to provide other methods in case of refusal of a publisher to print legal notices; to define the status of newspapers in which legal notices may be published; and to prosecute sheriffs, county clerks and other public officials for failure to publish notices required by law in newspapers authorized by law to publish same.

Be it enacted by the Legislature of West Virginia:

The price for publishing all advertisements and publications
2 required to be made by law, or by the order of a court in any cause

3 of proceeding therein, or by any provision of a deed of trust, or
4 where any publication is made pursuant to law and no price is
5 named, shall not exceed two cents for each word for the first
6 insertion, and one cent for each word for every subsequent inser-
7 tion required to be made; and if no newspaper in which such
8 publication may be made, will insert the same for the time re-
9 quired, or the price aforesaid, then the notice shall be published
10 in some newspaper issued from the state capital and the notice

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11 shall be posted by the person whose duty it is to have the publi-
12 cation made, at the front door of the court house of the county
13 in which the cause is pending, or the proceedings had, at least
14 four weeks prior to the time fixed for executing the order, decree
15 or deed, or for the accomplishment of the purpose of said publi-
16 cation, and copies of said notice shall be posted in at least four
17 other public places in said county at the same time, and a copy
18 of the same shall be sent by the person whose duty it is to post, by
19 mail, postage paid, to each party interested in such publication,
20 directed to such person at his last known post-office address. In
21 any case the price paid for such publication or posting and post-
22 age shall be taxed in the bill of costs, and an affidavit shall be filed
23 by the person posting the notice, showing the fact that no news-
24 paper published in the county, or having a general circulation
25 therein, would publish the notice upon the terms mentioned above,
26 and the same facts shall be stated in the decree or order entered
27 under the notice thus posted.

28 Any clerk of the county court, sheriff, city clerk, county or
29 municipal officer, member of board of education or county court,
30 or any other public or state official who shall, within the time
31 prescribed, fail or refuse to perform the duties required by the
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32 provisions of any law requiring the publication of notices in news-
33 papers, after having their attention called to the law, shall be
34 guilty of a misdemeanor and upon conviction thereof shall be fined
35 not less than one hundred dollars, nor more than five hundred
36 dollars and shall be liable to removal from office for neglect of
37 duty; and the prosecuting attorney of any county shall, when such
38 failure or refusal shall come to his knowledge, immediately present
39 the evidence thereof to the grand jury if in session, and if not in
40 session, he shall institute proper criminal proceedings before a

41 justice of the peace against any such offender, and cause such fail-
42 ure or refusal to be investigated by the next succeeding grand
43 jury.

44 It is hereby made the duty of the judge of the circuit court or
45 the person acting as such, to remove from office any public official
46 violating the law in failing to publish notices required to be pub-
47 lished by law in newspapers authorized by law to publish the same.
48 The charges against any such officer shall be reduced to writing,
49 and entered of record by the court, and a summons shall there-
50 upon be issued by the clerk of such court, containing a copy of the
51 charges, and requiring the officer named therein to appear and
52 answer the same on a day to be named therein, which summons

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53 may be served upon said officers in the same manner as a summons
54 commencing an action may be served, and the service must be
55 made at least five days before the return day thereof. And the
56 court itself shall, without a jury, hear the charges, and upon satis-
57 factory proof thereof, remove any such officer from the discharge
58 of the duties of his office, and place the records, papers and
59 property of his office in the possession of some other officer or
60 person for safe keeping until the vacancy is filled. Any vacancy
61 created under this section shall be filled in the manner required
62 by law as to the county and district officers, and in the manner
63 prescribed by the charter or ordinance of the municipality. Any
64 citizen of the county, district, or municipality, as the case may be,
65 may prefer and prosecute to final judgment, charges for removal
66 against any of the officers mentioned in this section. Either party
67 shall have the right of appeal to the supreme court of appeals of
68 the state from judgment of the circuit court.

69 Every county court or tribunal erected in lieu thereof, every
70 board of education, whether of an ordinary school district or an
71 independent school district, every incorporated city, town or vil-
72 lage and every state, county, district or municipal officer, required
73 by law to make, or cause to be made, publication of any notice,
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74 statement, list, report, advertisement, proclamation or other matter,
75 in two newspapers of opposite politics, in the state or any county
76 or sub-division thereof, shall publish the same, or cause it to be
77 published, in two newspapers published at the date of the passage
78 of this act, at the county seat of the county in which such publica-

79 tion is to be made or which has been published continuously for
 80 the period of ten years or longer at some place other than the
 81 county seat in which such publication is to be made, and represent-
 82 ing, respectively, the two political parties therein which, at the
 83 last preceding general election held therein, cast the highest num-
 84 ber of votes in such county; and if any party be represented by
 85 more than one newspaper printed and published as aforesaid, such
 86 publication, as to such party, shall be made in the one of such
 87 newspapers which was first established as such representative or its
 88 immediate successor running under a new or altered name and
 89 printed and published as aforesaid.

90 The owner or publisher of any newspaper entitled under the pro-
 91 visions of this act to have any publication made in his newspaper,
 92 which any county court or tribunal erected in lieu thereof, board of
 93 education, council of a municipal corporation, or public officer shall
 94 fail or refuse to make, may have a writ of mandamus to compel the

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95 making of said publication; *provided* he is is willing to accept the
 96 price prescribed therefor by law.

97 All acts and parts of acts coming within the purview of this act
 98 and inconsistent with the same are hereby repealed.

House Bill No. 402

(BY MR. ROWAN.)

[Introduced January 25, 1921; referred to the Committee on Edu-
 cation.]

House Bill No. 402

A BILL to amend and re-enact sections thirty-five and thirty-six of
 chapter forty-five of the code of one thousand nine hundred
 thirteen relating to free text books and to add thereto sections
 thirty-six-*a*, thirty-six-*b*, thirty-six-*c*, and thirty-six-*d*; providing
 for the purchase and distribution of public school text-books and
 to provide for a state text-book fund and the apportionment
 thereof.

Be it enacted by the Legislature of West Virginia:

That sections thirty-five and thirty-six of chapter forty-five of the code of one thousand nine hundred thirteen relating to free text-books be and they are hereby amended and re-enacted so as to read as follows, and that sections thirty-six-*a* thirty-six-*b*, thirty-six-*c* and thirty-six-*d* be added thereto.

Section 35. For the purpose of providing a fund to be used to
 2 purchase text-books for the pupils in the public free schools of this
 3 state, the state board of public works is hereby authorized and
 4 directed to lay annually, beginning with the year one thousand
 5 nine hundred and seventeen, a levy of not less than one cent and
 6 not to exceed two cents on each one hundred dollars of the as-
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 7 sessed valuation of all the taxable property of the state according
 8 to the last assessment thereof; or, in lieu of such a levy, the state
 9 board of public works may, for the purpose aforesaid, set aside
 10 and apportion from any funds in the state treasury not otherwise
 11 appropriated a sum equal to the amount of money that would
 12 accrue from the levy hereinbefore required. The fund derived
 13 from such levy or apportionment shall be known as "The State
 14 Text-book Fund" and shall be distributed among the counties as
 15 hereinafter provided.

Sec. 36. It shall be the duty of the auditor, on or before the
 2 twentieth day of July in each year, to ascertain the amount of "the
 3 state text-book fund" which is distributable among the several
 4 counties as aforesaid, and notify the state superintendent of free
 5 schools thereof, who shall thereupon ascertain the proper share
 4 of each county according to the number of school youth enumer-
 5 ated therein, and notify the auditor and each county superin-
 6 tendent of said apportionment.

7 Upon receiving such notice, the county superintendent shall
 8 ascertain the proper share of each district, and independent dis-
 9 trict, of his county according to the number of school youth enum-
 10 erated therein, and shall give notice to the board of education of

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11 each district, in the county, of the amount of "the state text-
 12 book fund" due each district or independent district, and that
 13 the same cannot be drawn by them until they have made the levy
 14 required by section twenty-one of this chapter. When the board
 15 of education has laid the levy as hereinbefore provided and has

16 complied with the other requirements of this act, the county super-
17 intendent shall, for the year one thousand nine hundred and
18 eighteen and annually thereafter, issue two requisitions on the
19 auditor, each for one-half of the amount due, payable to the order
20 of the sheriff of his county on the fifteenth of September and De-
21 cember respectively. The amounts so received by each district and
22 independent district together with any funds accruing from dis-
23 trict levies for the same purpose shall be treated and accounted
24 for as a fund separate from all other school funds to be known as
25 "the text-book fund" and shall be used for the purpose set forth in
26 this act and for none other.

Sec. 36-a. If, in any district or independent district, the
2 amount received in any year from the apportionment of the state
3 text-book fund is not sufficient to pay for the necessary text-books
4 as provided in this act, the board of education of such district or
5 independent district shall, by entering an order to that effect, set

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6 aside from the building fund of the district a sum that together
7 with the apportionment aforesaid shall be sufficient for such pur-
8 pose. When any sum is so set aside, it shall become a part of the
9 "text-book fund" and shall be treated and accounted for as here-
10 inbefore provided.

Sec. 36-b. Before the term of school begins in each year it
2 shall be the duty of each board of education aforesaid to purchase
3 or procure through lawfully established depositories or as other-
4 wise provided by law text-books for the use of the schools in its
5 district sufficient to supply the pupils thereof. Said books shall
6 be of the title, quality and edition that have been regularly adopted
7 according to law, and shall be purchased at prices not to exceed
8 those contracted for by the state school book commission, or by
9 any other body authorized by law to adopt and contract for text-
10 books to be used in public free schools of this state. Payments for
11 said books shall be made by warrant on the sheriff to be paid upon
12 the approval of the county financial secretary out of "the text-
13 book fund" hereinbefore provided.

14 On or before the commencement of every term of school and
15 at such other times as may be necessary the secretary of the board
16 of education, or some other person designated by said board, shall
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17 deliver to the teachers of the district the necessary text books

18 prescribed for use in the public schools of such district or inde-
19 pendent district to supply the pupils thereof; and shall take from
20 said teachers proper receipts for the books received. It shall be
21 the duty of such teachers to take charge of such books and to dis-
22 tribute them among the pupils of their schools as needed, and
23 said teachers shall have and exercise general control over said
24 books during such term, and at the close thereof and before they
25 receive the salary for the last month of such term, shall collect all
26 the books so used during the term, except those lost or destroyed,
27 for delivery to the board of education or to a duly authorized agent
28 of said board; *provided*, that if any of the books delivered to any
29 pupil of such district shall be lost, destroyed, or unnecessarily
30 damaged they shall be replaced or paid for by the parent or guard-
31 ian or other person legally responsible for the pupil who lost, de-
32 stroyed or damaged such book or books. The text-books distribu-
33 ted as provided by this act shall be properly fumigated from time
34 to time, and due care and economy shall be used in the distribu-
35 tion, preservation, and collection of such books. Boards of edu-
36 cation shall carry out the provisions of this act under such rules
37 and regulations as the state superintendent or schools shall pre-

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38 scribe in accordance with law; *provided*, that any person aggrieved
39 by any action of a board of education regarding the purchase and
40 distribution of text-books may appeal therefrom to the county
41 superintendent in the same manner as is provided in section
42 twelve of this chapter.

Sec. 36-c. When in any district or independent district, "The
2 Text Book Fund" available under the provisions of this act, for
3 the purchase of text-books is not sufficient to provide all the
4 necessary text-books for the public schools of such district, the
5 board of education shall use all of said fund to purchase, in the
6 manner herein prescribed, a part of the necessary text-book in the
7 order of preference determined by the state superintendent of
8 schools.

Sec. 36-d. The expenses incurred by any board of education in
2 carrying out the provisions of this act, excepting the amounts paid
3 for text-books, shall be paid in the manner prescribed by law, out
4 of the building fund of the district.

5 All acts and parts of acts inconsistent herewith are hereby re-
6 pealed.

House Bill No. 138

(BY MR. CRUMP)

[Introduced January 19, 1921; referred to the Committee on Education.]

House Bill No. 138

A BILL to amend and re-enact section sixty-five of chapter two, acts of the legislature of one thousand nine hundred and nineteen, regular session, relating to free text books.

Be it enacted by the Legislature of West Virginia:

That section sixty-five of chapter two, of the acts of the legislature, one thousand nine hundred and nineteen, regular session, be amended and re-enacted so as to read as follows:

Section 65. The board of education of any district or independent district shall purchase the necessary text books prescribed to be used in the free schools under their control, and furnish the same free to the pupils of said schools.

At the commencement of every term of the free schools in such district the secretary shall deliver to the teachers thereof such books as may be necessary for the use of the several pupils therein for the ensuing term of school and take from them receipts showing the number and kind of books so received. It shall be the duty of such teachers to take charge of such books and to distribute them among the pupils of their schools as needed, and said teachers shall have and exercise general control over said books during

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such term and at the close thereof and before they receive an order for salary for the last month of such term shall collect and gather together all the books so used during the term and deliver them to the secretary of the board of education; *provided*, that if any of the books delivered to any pupil of such district shall be unnecessarily injured or destroyed they shall be replaced by the pupil who injured or destroyed them. All such books shall be purchased by the board of education directly from the publisher, contracted with as prescribed by law and at the net wholesale price. *Provided, however*, that the teacher shall be allowed pay for a period of two days at the same rate of pay for which he or she is

24 teaching, and also be furnished means of transportation for going
25 after and returning the text books for the school, the same to be
26 paid out of the building fund of the district in which he or she
27 teaches, on the return of the books to the school board's depository.

House Bill No. 77

(BY MR. WYSONG.)

[Introduced January 17, 1921; referred to the Committee on Education.]

House Bill No. 77

A BILL to authorize boards of education in districts and independent districts in which state normal schools are located to establish high schools without a vote, the same to be section 78-a of chapter two of the acts of the legislature of one thousand nine hundred and nineteen regular session.

Be it enacted by the Legislature of West Virginia:

Boards May Establish High Schools in Districts in Which State Normal Schools are Located.

Section 78-a. The board of education in any district or independent district in which a state normal school is located shall have the authority to establish a high school without submitting the question to a vote of the people of the district, and may lay for the support of a high school so established such levies as are authorized by law for other high schools. Any high school so established shall when properly classified by the state superintendent of schools, be entitled to receive an apportionment from the state fund for the aid of classified high schools.

House Bill No. 39

(BY MR. LANTZ, by request)

[Introduced January 17, 1921; referred to the Committee on the Judiciary.]

House Bill No. 39

A BILL to levy a privilege tax on any person, firm or corporation owning or holding title to land in West Virginia in excess of five hundred acres, authorizing the state tax commissioner to provide rules for the assessment and collection of such tax, providing for the disposition of the money received from the tax, and providing penalties.

Be it enacted by the Legislature of West Virginia:

Section 1. No person, firm or corporation, after the first day 2 of July, nineteen hundred and twenty one, shall own or hold title 3 to land in excess of five hundred acres in West Virginia, without 4 the payment of an annual privilege tax of twenty-five cents per 5 acre on all holdings in excess of five hundred acres.

Sec. 2. Every person, firm or corporation liable to the tax im- 2 posed by this act, shall, on or before the first day of July, nineteen 3 hundred and twenty one, and on or before the first day of July in 4 each year thereafter, deliver to the state tax commissioner a return 5 in writing showing the total number of acres of land owned or 6 held in West Virginia, the magisterial district or districts and the 4 [H. B. No. 39 7 county or counties in which same is located, and the number of 8 acres in each magisterial district. Such return shall be signed and 9 sworn to by the person making the same for himself or a partner- 10 ship, and by the president or other official having authority to 11 make such return, making the return for a corporation, which 12 shall be in form prescribed by the state tax commissioner. The 13 state tax commissioner is hereby invested with full power and au- 14 thority, and it is hereby made his duty, to prescribe forms for 15 returns and assessments, and to make, issue and put in force all 16 necessary and needful rules and regulations for assessing and col- 17 lecting the tax hereby imposed.

Sec. 3. The state tax commissioner shall ascertain and assess 2 the tax upon the person, firm or corporation liable for the payment 3 thereof, and shall give notice of the amount of such tax by notice 4 deposited in the post office addressed to such person, firm or cor- 5 poration at the address given in his, their or its return. Such as- 6 sertment of the tax shall be final and conclusive, subject to such 7 rules and regulations as the state tax commissioner shall make.

Sec. 4. Every person, firm or corporation so assessed with taxes

2 shall pay the same into the state treasury within sixty days after
 3 the date of the mailing of the notice of the amount thereof. It
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4 shall be the duty of the state tax commissioner to proceed to collect
 5 such taxes with a penalty of ten percentum added thereto, if not
 6 paid when due. The state tax commissioner may file a statement
 7 of any taxes due with the clerk of the county court of any county
 8 and the same shall constitute a lien on any real estate held by said
 9 person, firm or corporation in said county. At the time of pay-
 10 ing the taxes the state tax commissioner shall issue to the person,
 11 firm or corporation paying the same a certificate of payment for
 12 the proper fiscal year.

Sec. 5. Any person, firm or corporation required or authorized
 2 by law to make, sign or verify any return by this act, who makes
 3 any false or fraudulent return or statement with the intent to de-
 4 fraud the state or defeat or evade the payment of the tax, or any
 5 part thereof, shall be guilty of a misdemeanor, and upon convic-
 6 tion thereof, shall be fined not less than one hundred dollars, nor
 7 more than one thousand dollars, to which fine shall be added the
 8 costs of the prosecution.

Sec. 6. The state tax commissioner shall apportion the money
 2 received from this tax to the various magisterial districts in which
 3 the lands are located, in such proportion as the number of acres in
 4 the different districts shall be of the total number of acres assessed

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5 in the state, and the state treasurer shall pay the amount so appor-
 6 tioned over to the sheriffs of the counties to be credited to the dis-
 7 trict road funds of the said districts.

House Bill No. 376

(By MR. McCLINTIC, of Kanawha)

[Introduced January 24, 1921; referred to the Committee on Tax-
 ation and Finance.]

House Bill No. 376

A BILL to amend and re-enact sections eight and eight-a of chapter

thirty-nine of Barnes' code of one thousand nine hundred and sixteen, relating to county commissioners.

Be it enacted by the Legislature of West Virginia:

That section eight and section eight-a of chapter thirty-nine of Barnes' code of one thousand nine hundred and sixteen be amended and re-enacted so as to read as follows:

Section 8. Each commissioner who attends the session of said court, shall receive for his services in court two dollars per day for every day he shall so attend, to be paid out of the county treasury, and in addition thereto shall be allowed his necessary traveling and hotel expenses while attending such session.

Sec. 8-a. It shall be unlawful for any commissioner of the county court or other tribunal established in lieu thereof, to be, directly or indirectly, interested in any contract for furnishing supplies for the poor or in any contract for any purpose whatever, in which the county shall be in any way interested.

House Bill No. 309

(BY MR. WARD)

[Introduced January 22, 1921; referred to the Committee on the Judiciary.]

Senate Bill No. 152

(BY MR. HELMICK)

[Introduced January 21, 1921; referred to the Committee on the Judiciary.]

House Bill No. 309

A BILL to fix the salary of the clerk of the county court, clerk of the circuit court, prosecuting attorney and sheriff of Tucker county.

Be it enacted by the Legislature of West Virginia:

Section 1. That the salary of the clerk of the county court of Tucker county be and the same is hereby fixed at the sum of twenty-five hundred dollars per year.

Sec. 2. That the salary of the clerk of the circuit court of
2 Tucker county be, and the same is hereby fixed at the sum of two
3 thousand dollars per year.

Sec. 3. That the salary of the prosecuting attorney of Tucker
2 county be, and the same is hereby fixed at the sum of fourteen
3 hundred dollars per year.

Sec. 4. That the salary of the sheriff of Tucker county, be,
2 and the same is hereby fixed at the sum of twenty-eight hundred
3 dollars per year.

Sec. 5. All acts and parts of acts inconsistent herewith are
2 hereby repealed.

House Bill No. 90

(By Mr. MANNING)

[Introduced January 19, 1921; referred to the Committee on Mines
and Mining.]

House Bill No. 90

A BILL requiring washrooms to be provided and maintained at coal
mines for the use of employees where five or more persons are
employed.

Be it enacted by the Legislature of West Virginia:

Section 1. Every owner, operator, lessee or agent of a coal
2 mine, where five or more persons are employed, shall provide and
3 keep in repair a washroom, convenient to the principal mine en-
4 trance, adequate for the accommodation of the employes, for the
5 purpose of washing and changing their clothes when entering and
6 returning from the mine. Such washroom shall be properly
7 lighted and heated, supplied with warm and cold water and ade-
8 quate and proper facilities for washing purposes.

Sec. 2. All acts and parts of acts in conflict with this act are
2 hereby repealed.

House Bill No. 32

(BY MR. MCPHERSON.)

[Introduced January 17, 1921; referred to the Committee on Roads and Internal Navigation.]

House Bill No. 32

A BILL to provide for the clearing of the public highways.

Be it enacted by the Legislature of West Virginia:

Section 1. It shall be the duty of the county court of every county to remove from the right of way of class B roads, to a distance of fifteen feet from the center of such roads all trees, briars or other obstructions.

Any person owning land adjacent to such class B roads may report to the county court or road supervisor any trees or other obstructions which should be removed from the right of way. Upon failure of the county court or road supervisor to remove such obstructions within twenty days it has been reported, then such person may proceed to remove such obstructions and present to the county court an itemized statement of the work necessary for such removal. If such statement be found correct the county court shall make such compensation as is allowed for like work under the road supervisor, and payment shall be made out of the fund provided for the maintenance of class B roads.

House Bill No. 225

(BY MR. MCCLINTIC, of Greenbrier.)

[Introduced January 20, 1921; referred to the Committee on Forestry and Conservation.]

House Bill No. 225

A BILL to amend and re-enact section fifty-six, chapter sixty-two-a, Barnes' code of one thousand nine hundred and sixteen, relating to state forest reserves and providing funds for the purchase thereof.

Be it enacted by the Legislature of West Virginia:

That section fifty-six, chapter sixty-two-a Barnes' code of the year one thousand nine hundred and sixteen be amended and re-enacted to read as follows:

Section 56. The forest, game and fish warden or such other officer or officers or commission as may be provided by law by and with the consent of the governor, shall have the power to purchase lands in the name of the state suitable for forest culture and reserves, at a price which shall closely approximate the sale price of similar lands in the same locality in which said land is located, using for such purpose one hundred thousand dollars annually which shall be appropriated by the legislature of this state, and using in addition thereto any surplus money not otherwise appropriated which may be standing to the credit of the forest, game and fish protection fund; and to make rules and regulations gov-

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erning state reserves; and is hereby authorized by and with the consent of the governor, to accept gifts of land to the state, the same to be held, protected and administered by the forest, game and fish warden as state forest reserves; and to be used so as to demonstrate the practical utility of culture and as a breeding place for game. Such gifts must be absolute, except for the reservation of all mineral and mining rights over and under said lands, and a stipulation that they shall be administered as state forest reserves, and the attorney general of the state is directed to see that all deeds to the state of lands mentioned above are properly executed before the gift is accepted.

All acts and parts of acts in conflict with this act are hereby repealed.

House Bill No. 214

(BY MR. MCPHERSON.)

[Introduced January 20, 1921; referred to the Committee on the Judiciary.]

House Bill No. 214

A BILL to amend and re-enact section one hundred and eighteen of chapter two of the acts of the legislature of one thousand nine hundred and nineteen, regular session, relating to enrollment fee.

Be it enacted by the Legislature of West Virginia:

That section one hundred and eighteen of chapter two of acts of legislature of one thousand nine hundred and nineteen, regular session, relating to institute enrollment be amended and re-enacted so as to read as follows:

Section 118. *Enrollment Fee*—Every teacher enrolled in a county teachers' institute, or other teachers' meeting conducted in lieu thereof, shall pay an institute fee of fifty cents which shall be used by the county superintendent of schools for incidental expenses and for the betterment of the institute. Any part of said fee not used by the county superintendent of schools for incidental expenses and for the betterment of the institute, shall be remitted by the county superintendent to be paid into the state treasury to the credit of the general school fund.

An account of said expenses shall be submitted to the institute during its session for approval or disapproval.

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If any county superintendent of schools shall fail within a reasonable time to remit to the auditor any part of said institute fees in his county which were not used, it shall then be the duty of the auditor to withhold payment of the salary of such county superintendent until such remittance has been received.

House Bill No. 269

(BY MR. CAPEHART.)

[Introduced January 21, 1921; referred to the Committee on Roads and Internal Navigation.]

House Bill No. 269

A BILL to amend and re-enact section one hundred and twenty-eight of chapter forty-three of Hogg's code of West Virginia, of the edition of one thousand nine hundred and eighteen, relating to chauffeurs, badges and license of motor vehicles.

Be it enacted by the Legislature of West Virginia:

Section 128. Every person desiring to operate a motor vehicle either as a chauffeur or carrying on the business of transporting

3 passengers or freight for hire, shall file in the office of the state
4 road commission, on a blank to be provided by such commission,
5 an application, which shall state the name of the applicant, his
6 address, and the trade name and motor power of his vehicle or
7 vehicles he is able to operate, and shall pay a registration or
8 license fee of ten dollars. Such application shall be verified by
9 the signature of two citizens of this state of at least two years prac-
10 tical experience in operating motor vehicles, and be accompanied
11 by a photograph of the applicant taken within thirty days prior
12 to the filing of the application. The commission shall there-
13 upon file the application and photograph in its office, register such
14 chauffeur in a book or index to be kept for that purpose and as-

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15 sign to him a number, and the commission shall thereupon further
16 issue and deliver to such chauffeur a certificate of registration and
17 an enameled metal badge corresponding in color with the license
18 tags issued for the same year for motor vehicles, with the fol-
19 lowing words stamped thereon: "Registered Chauffeur, No.,
20 W. Va.," with the registration number inserted thereon, together
21 with the year for which such license is issued. But no person who
22 may be so registered under the provisions of this section shall
23 operate a motor vehicle either as a chauffeur or carry on the busi-
24 ness of transporting passengers or freight for hire until he shall
25 have given bond before the county court with approved personal
26 security or in some surety company authorized to do business in
27 this state, in the penalty of at least thirty-five hundred dollars,
28 conditioned that he shall pay all costs and damages accruing to
29 anyone by the unlawful, careless or wreckless running or operating
30 of said motor vehicle. Said bond shall be recorded by the clerk
31 of said court in a well bound book kept for the purpose and he
32 shall file and preserve the original in his office. The state road
33 commission shall prepare and furnish to the several counties the
34 form of bond to be used under this section, and shall also furnish
35 to the county court badges of the kind described in this section,
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36 with the following words stamped thereon: "Bonded Chauffeur,
37 No....., W. Va.," which shall be numbered, and the number
38 written in the face of said bond, and upon the approval of the
39 bond by the county court, the clerk of the county court shall de-
40 liver said badge to the person who executed the bond.

41 The badges provided for in this section shall be worn by such

42 chauffeur in a conspicuous place on his clothes at all times while
43 driving a motor vehicle on the highways. No such chauffeur
44 shall voluntarily permit another person to wear the badges is-
45 sued him, nor shall any person while operating a motor vehicle
46 wear any badge or badges belonging to another chauffeur or a
47 fictitious badge. Duplicate badges in case of loss may be issued
48 under such regulations as the state road commission may pre-
49 scribe. Any person violating the provisions of this section shall
50 be guilty of a misdemeanor and upon conviction thereof before
51 any justice or court shall be fined not less than one hundred nor
52 more than five hundred dollars and be imprisoned in the county
53 jail not less than thirty days nor more than twelve months.

House Bill No. 79

[BY MR. MC CLINTIC.]

(January 17, 1921. Introduced by Mr. McClintic, of Kanawha. Reference to Committee dispensed with; read a first time and ordered to second reading.)

A BILL to fix the salaries of the elective state officers other than the Governor, the same being an emergency measure."

Be it enacted by the Legislature of West Virginia:

Section 1. That on and after March 4, 1921, the salary of the
2 secretary of state, state superintendent of free schools, auditor,
3 treasurer, attorney general and commissioner of agriculture shall
4 be six thousand dollars (\$6,000.00) each per annum, payable
5 monthly out of the state treasury.

House Bill No. 397

(BY MR. ROWAN.)

[Introduced January 25, 1921; referred to the Committee on Humane Institutions and Public Buildings.]

House Bill No. 397

A BILL to remove the seat of government of this state from the city of Charleston in Kanawha county, and re-locate the same in the

city of Elkins, in Randolph county, and to provide for the erection of a capitol building and all other necessary buildings for the use of the state at the said city of Elkins and to repeal all acts and parts of acts inconsistent herewith.

WHEREAS, the capitol building of this state has been destroyed by fire and the state is now without a building for the use of the state government and the several departments thereof: and

WHEREAS, there are several bills now pending before the legislature for the removal of the seat of government from Charleston in the said county of Kanawha to other cities; and

WHEREAS, the said seat of government was located at the said city of Charleston by the vote of the people under and by virtue of an act of the legislature in one thousand eight hundred and seventy-seven, which provided among other things that the said seat of government might thereafter be removed from the said city of Charleston and re-located elsewhere by the vote of the people, and there being a demand for the removal thereof aforesaid; and,

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WHEREAS, the legislature being of the opinion that the people of this state ought to have, and do have, the right to make such re-location by the vote of the qualified voters of the state; therefore:

Be it enacted by the Legislature of West Virginia:

Section 1. That, in order to ascertain the sense of the people of this state as to the removal of the seat of government from the city of Charleston, in Kanawha county, to the city of Elkins, in Randolph county, a special election shall be held at the several places of voting in the several counties of the state on the first Tuesday in September, one thousand nine hundred and twenty-one, for the purpose of determining the said question of the relocation at the said city of Elkins. The said election shall be held in accordance with the general election laws of the state in all respects except as hereinafter provided. It shall be the duty of the county court or other tribunal acting in lieu thereof, to appoint commissioners to superintend, conduct and make return of the said election, and such commissioners after having been duly sworn, shall conduct, superintend and return the result of the said election in all respects as required by law, except as herein provided. The said commissioners and other officers necessarily engaged in holding the said election shall receive the compensation provided

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18 by law, shall discharge all the duties required by them by law and
19 shall be subject to the same punishment for misconduct as pro-
20 vided by law. It shall be the duty of the governor to publish notice
21 of said election by proclamation published in two newspapers of
22 opposite politics in each county of the state where such papers
23 may be published. In any county where two such papers are not
24 published the same shall be published in one newspaper thereu
25 and in some newspaper of opposite politics having a general cir-
26 culation in such county for thirty days prior to said election.

Sec. 2. At the said election the tickets shall contain opposite
2 the first square the words "for removal of the seat of govern-
3 ment" and opposite the second square the words "against the
4 re-location of the seat of government", and the said ticket shall
5 be made up, distributed and the result ascertained, certified and
6 returned, and all other acts and things in connection with the
7 said election shall be done in accordance with the general election
8 laws applicable to state and county elections, except as hereinafter
9 provided.

Sec. 3. The result of the said election in the several places
2 of voting in the several counties of the state shall be certified
3 by the commissioners holding the said election to the clerk of the
4 county court of each county in the state and the said clerk shall
5 preserve in his office the ballots cast at said election, and shall
6 within five days after the said election transmit to the governor
7 of this state one of the original certificates of said election from
8 each voting place in this county and preserve the other original
9 certificates among the records of his office, but before doing so, any
10 corrections may be made in the certification of the result by the
11 county court of the county. Within thirty days from the date of
12 said election the governor shall ascertain and determine the result
13 thereof, according to the returns as certified by the commissioners
14 holding said election, and the clerk of the county court as afore-
15 said, and declare by proclamation published in at least one news-
16 paper in each county of the state as the same may appear from
17 the returns as aforesaid; and if the majority of all the votes cast
18 at the said election under the provision of this act be in favor
19 of the removal of the said seat of government to the said city of
20 Elkins, such city of Elkins shall from the first day of October,
21 one thousand nine hundred and twenty-three be the permanent
22 seat of government of this state. In case the number of votes cast

at said election for and against removal shall be equal, then the board of public works at a meeting called for the purpose by the H. B. No. 397]

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governor, within ten days of the receipt of said returns shall determine and decide whether the said seat of government shall be so removed or not.

Sec. 4. In case a majority of the votes at said election shall be in favor of removal of the said seat of government, as hereinbefore provided, it shall be the duty of the board of public works to select and procure a suitable site at said city of Elkins, and erect a capitol building and all other necessary buildings for the use of the state thereon, and for this purpose said board may accept and receive donations in real estate, money or otherwise, as may be offered to the said board; and in order to further aid in carrying into effect the provision of this section in case of removal, the sum of five hundred thousand dollars is hereby appropriated and placed at the disposal of said board, payable out of any money in the treasury not otherwise appropriated, and the same to be paid from time to time upon the drafts of said board for the purposes as aforesaid. All real estate acquired under the provision of this section shall be conveyed to the board of public works for the use of the state, and shall be clear of all incumbrances and each conveyance shall show upon its face the actual consideration paid therefor in case of purchase, and the actual value in case of dona-

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tion. The legislature may provide hereinafter, from time to time, such additional funds as may be necessary for the purpose as aforesaid:

But, before expending any moneys under the provision of this section said board shall employ a competent architect to provide plans and specifications for the said capitol building and the other necessary buildings herein provided for, and all contracts for work to be done or materials to be furnished shall not be awarded or let until due notice shall be given by publication of reasonable notice, and for the time as may be determined by the said board, and all such contracts shall be let to the lowest and best bidder and the interest of the state therein shall be protected and secured by proper bonds or forfeits, or both.

Sec. 5. In case of such removal, as soon as possible after the first day of October, one thousand nine hundred and twenty-three, the governor shall cause all the books, papers, records and other

4 personal property to the state, including the state library, and the
5 effects pertaining to the several departments of the state govern-
6 ment, to be removed to the said permanent seat of government, the
7 expense of which shall be paid out of the contingent fund.

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Sec. 6. All acts and parts of acts inconsistent with the pro-
2 vision of this act are hereby repealed.

House Bill No. 42

(By MR. HOWARD)

[Introduced January 17, 1921; referred to the Committee on the
Judiciary.]

A BILL to provide for the submission to the voters of the state of an
amendment to the constitution of the State, as follows: Amend-
ing section twenty-three of article eight.

Be it enacted by the Legislature of West Virginia:

Section 1. That the question of the ratification or rejection of
2 an amendment to the constitution of West Virginia, proposed in
3 accordance with the provision of section two, of article fourteen
4 of said constitution, shall be submitted to the voters of the state at
5 the next general election to be held in the year one thousand nine
6 hundred and twenty-two, which proposed amendment is as fol-
7 lows:

8 That section twenty-three of article eight, of the constitution of
9 the state of West Virginia be amended so as to read as follows:

10 The commissioners shall be elected by the voters of the county
11 and shall hold their office for the term of six years, except that at
12 the first meeting of said commissioners they shall designate by lot,
13 or otherwise, in such manner as they may determine, one of their
14 number, who shall hold his office for the term of two years,
15 one for four years, and one for six years, so that one

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16 shall be elected every two years. But no two of said com-
17 missioners shall be elected from the same magisterial district. And
18 if two or more persons residing in the same district shall receive
19 the greater number of votes cast at any election, then only the one
20 of such persons receiving the highest number shall be declared
21 elected, and the person living in another district who shall receive

22 the next highest number of votes, shall be declared elected. Said
 23 commissioners shall annually elect one of their number as presi-
 24 dent, and each shall receive for his services in court a sum not less
 25 than four dollars nor more than six dollars per day to be paid out
 26 of the county treasury.

Sec. 2. For convenience in referring to the said proposed
 2 amendment and in the preparation of the form of the ballot here-
 3 inafter provided for, said proposed amendment is hereby desig-
 4 nated as follows: To be known as "County Court Amendment".

Sec. 3. for the purpose of enabling the voters of the state to
 2 vote on the question of said proposed amendment to the constitu-
 3 tion, at the said general election to be held in the year one thousand
 4 nine hundred and twenty-two, the board of ballot commissioners
 5 of each county are hereby required to prepare separate ballots
 6 from that of the official ballot to be voted at said election, and print
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7 thereon the following:

8 BALLOT ON CONSTITUTIONAL COUNTY COURT AMENDMENT.

9 *Amending section twenty-three of article eight.*

10 [] For ratification of county court amendment.

11 [] Against ratification of the county court amendment.

12 The said election on the proposed amendment at each place of
 13 voting, shall be superintended, conducted and return, and the
 14 result thereof ascertained, by the same officers and in the same
 15 manner as the election of officers to be voted for at said election;
 16 and all of the provisions of the law relating to general elections,
 17 including all duties to be performed by any officer or board, as
 18 far as applicable and not inconsistent with anything herein con-
 19 tained, shall apply to the election held under the provisions of
 20 this act, except when it is herein otherwise provided. The ballots
 21 cast on the question of said proposed amendment shall be counted
 22 as other ballots cast at said election.

Sec. 4. As soon as the result is ascertained the commission-
 2 ers, or a majority of them, and the canvassers (if there be any) or
 3 a majority of them, at each place of voting, shall make out and
 4 sign two certificates thereof in the following form or to the fol-
 5 lowing effect:

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6 "We, the undersigned, who acted as commissioners (or canvas-
 7 sers as the case may be), of the election held at

8 in the district of, in the county of
 9 on the day of one thousand nine hun-
 10 dred and twenty-two, upon the question of the ratification or re-
 11 jection of the proposed constitutional amendment to section twen-
 12 ty-three of article eight, do hereby certify that the result of said
 13 election is as follows:

14 *Amending section twenty-three of article eight:*

15 For ratification of county court amendmentvotes.

16 Against ratification county court amendmentvotes.

17 Given under our hands this day of

18 one thousand nine hundred and twenty-two.

19 The said two certificates shall correspond with each other in all
 20 respects, and contain the full and true returns of said election at
 21 each place of voting on said question. The said commissioners, or
 22 any one of them (or said canvassers or one of them, as the case
 23 may be), shall within four days, excluding Sundays, after that on
 24 which said election was held, deliver one of said certificates to
 25 the clerk of the county court of his county, together with the bal-
 26 lots, and the other to the clerk of the circuit court of the county.

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27 The said certificates, together with the ballots cast on the ques-
 28 tion of said proposed amendment, shall be laid before the com-
 29 missioners of the county court at the court house at the same time
 30 the ballots, poll books and the certificates of the election are laid
 31 before them; and as soon as the results of said election in the
 32 county upon the question of such ratification or rejection is as-
 33 certained, two certificates of such result shall be made and signed
 34 by said commissioners, as a board of canvassers, in the form or to
 35 the following effect:

36 "We, the board of canvassers of the county of
 37 having carefully and impartially examined the returns of the elec-
 38 tion held in said county, in each district thereof, on the
 39 day of November, one thousand nine hundred and twenty-two, do
 40 certify that the results of the election in said county, on the ques-
 41 tion of the ratification or rejection of the proposed amendment to
 42 section twenty-three of article eight is as follows:

43 For ratification of county court amendmentvotes.

44 Against ratification of county court amendmentvotes.

45 Given under our hands this the day of

46 one thousand nine hundred and twenty-two."

47 One of the certificates shall be filed in the office of the clerk of
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48 the county court, and the other forwarded by mail to the secretary
49 of state who shall file and preserve the same until the day on which
50 the result of said election in the state is to be ascertained, as here-
51 inafter stated.

Sec. 5. On the twenty-fifth day after the election is held, or
2 as soon thereafter as practicable, the said certificates shall be laid
3 before the governor, whose duty it shall be to ascertain therefrom
4 the results of said election in the state, and declare the same by
5 proclamation published in one or more newspapers printed at the
6 seat of government. If a majority of the votes cast at said elec-
7 tion upon said question be for the ratification of said amendment,
8 the proposed amendment so ratified shall be of force and effect
9 from and after the time of such ratification, as part of the constitu-
10 tion of the state.

Sec. 6. The governor shall cause the said proposed amend-
2 ment, with the proper designations for the same as hereinbefore
3 adopted, to be published one time at least three months before such
4 election, in some newspapers in every county in which a news-
5 paper is printed, at a price to be agreed upon in advance, in writ-
6 ing, and the costs of such advertising shall be in the first instance,
7 if found necessary by him, be paid out of the governor's contin-
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8 gent fund and be afterwards repaid to such fund by appropriation
9 of the legislature.

ENGROSSED

House Bill No. 355

(BY MR. NUTTER.)

A BILL providing for the appointment of a stenographer for the
prosecuting attorney of Kanawha, and fixing the salary of said
stenographer.

Be it enacted by the Legislature of West Virginia:

Section 1. The prosecuting attorney of Kanawha county may
2 employ one stenographer for his office at a salary not to exceed
3 eighteen hundred dollars to be paid out of the county treasury.

Senate Bill No. 354

(By MR. HARMER, by request.)

[Introduced January 24, 1921; referred to the Committee on the Judiciary.]

A BILL to amend section seven of chapter one hundred and forty-nine of the code by adding thereto sections seven-a-one, seven-a-two, seven-a-three, seven-a-four, seven-a-five and seven-a-six to protect the marriage relation.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter one hundred and forty-nine of the code be amended by adding thereto sections seven-a-one, seven-a-two, seven-a-three, seven-a-four, seven-a-five and seven-a-six, so as to read as follows:

Section 7-a-1. If any wife has reason to believe that any woman
2 other than herself is on intimate terms with the husband of such
3 wife and that such intimacy has led or may lead to illicit relations
4 between such other woman and said husband, or that such inti-
5 macy has alienated or may alienate the affections of said husband
6 from his said wife; or that such intimacy has caused or may cause

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7 said husband to neglect his said wife or his children or has caused
8 said husband to fail or refuse to provide for her, or their, mainte-
9 nance and support; or that such intimacy has destroyed or may
10 destroy the happiness of the home of such wife and husband, such
11 wife may notify such other woman in writing that (giving her
12 husband's name) is the lawful husband of the wife signing said
13 notice; that he is not divorced from said wife and that such other
14 woman is thereby notified to refrain thereafter from any com-
15 munication or association whatever with said husband.

Sec. 7-a-2. Any woman over fourteen years of age who has
2 received such notice, and who thereafter shall associate or com-
3 municate with said husband, shall be guilty of a misdemeanor, and
4 punished as hereinafter specified. And in every such case said
5 husband shall be served with a copy of said notice, with the return
6 of the officer showing service of such notice upon said other woman
7 endorsed thereon, and in event he shall thereafter associate or
8 communicate in any way with such other woman, he shall be
9 guilty of a misdemeanor, and punished as hereinafter specified.

Sec. 7-a-3. If any husband suspect, or have reason to believe

2 that any man other than himself is on intimate terms with the
3 wife of such husband, and that such intimacy has led or may lead
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4 to illicit relations between such other man and said wife, or that
5 such intimacy has alienated or may alienate the affections of said
6 wife for her said husband or that such intimacy has caused said
7 wife to neglect her home or children, or that such intimacy has
8 destroyed or may destroy the happiness of the home of such wife
9 and husband, such husband may notify such other man in writing
10 that (giving his wife's name), is the lawful wedded wife of the
11 husband signing said notice; that she is not divorced from said
12 husband, and that such other man is thereby notified to refrain
13 thereafter, from any further association or communication what-
14 ever with said wife.

Sec. 7-a-4. Any man over eighteen years of age who has re-
2 ceived such notice and who thereafter, shall associate or communi-
3 cate with said wife shall be guilty of a misdemeanor, and punished
4 as hereinafter specified. And in every such case said wife shall
5 be served with a copy of said notice with the return of the officer
6 showing service of such notice upon such other man endorsed
7 thereon, and in event she shall thereafter associate or communicate
8 in any way with such other man she shall be guilty of a misde-
9 meanor and punished as hereinafter specified.

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Sec. 7-a-5. Any person violating the provisions of this act shall
2 be fined not less than ten nor more than fifty dollars for the first
3 offense, and not less than twenty-five nor more than one hun-
4 dred dollars for each offense thereafter; and in addition to such
5 fine for each offense after the first shall be confined in jail not less
6 than thirty days nor more than sixty days. *Provided, however,*
7 *that the notice herein contemplated shall not be served unless*
8 *sworn to before a justice of the county wherein one or more of*
9 *the persons involved resides. And the justice, before affixing the*
10 *verification to said notice shall make diligent inquiry in order to*
11 *determine whether or not the statements contained in said notice*
12 *are true. And in all cases the justice may summon such witnesses*
13 *as may be necessary to verify the statements made by the complain-*
14 *ants, before accepting such complaint and approving said notice.*

Sec 7-a-6 Any wife or husband who shall maliciously and
2 falsely make accusation against any innocent person under the
3 provisions of this act shall be guilty of a misdemeanor and shall be

4 subject to the same fines and penalties hereinbefore specified for
5 other violations hereunder.

6 In all cases arising hereunder the husband or wife may testify
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7 fully as to all facts regardless of the provisions of section nine-
8 teen, chapter one hundred and fifty-two, code of West Virginia
9 and any acts amendatory thereof.

House Bill No. 226

(By MR. McCLINTIC, of Greenbrier)

[Introduced January 20, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 226

A BILL to amend and re-enact section one hundred, chapter three
Barnes' code of one thousand nine hundred and sixteen, re-
lating to receiving money, transportation to polls and other
things of value to vote.

Be it enacted by the Legislature of West Virginia:

That section one hundred, chapter three, Barnes' code of one
thousand nine hundred and sixteen be amended and re-enacted to
read as follows:

If any voter directly or indirectly, by himself or through
2 any other person, receives, agrees, or contracts for, before, dur-
3 ing, or after the election, any money, gift, loan or other val-
4 uable consideration, office, place, or employment, for himself or
5 any other person, for voting or agreeing to vote, or for refrain-
6 ing or agreeing to refrain from voting at any election, or for
7 not voting or agreeing to vote for any particular person or
8 persons or proposition or question at any election, and *provided*,
9 *further*, that any voter or voters who accept transportation to
10 the polls from any person or persons whatsoever in any hired
11 vehicle of transportation, or on any horse, airplane, steam or

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12 electric railway or any person or persons who furnish free or
13 hire another to furnish any vehicle of transportation as above

14 specified to transport voters to the polls, or any person who
15 transports voters to the polls for hire or otherwise shall be guilty
16 of a misdemeanor and any voter which violates the provisions of
17 this section shall be disfranchised for not more than ten years,
18 for the first offense and fined not less than ten dollars nor more
19 than twenty-five dollars; for a second offense he shall be dis-
20 franchised during life and fined not less than twenty-five dol-
21 lars nor more than one hundred dollars. Any person or persons
22 violating the transportation laws specified in this section shall
23 be guilty of a misdemeanor and fined not less than one hun-
24 dred dollars nor more than five hundred dollars and at the dis-
25 cretion of the court he shall be confined in the county jail not less
26 than thirty days nor more than six months.

27 For a second offense he shall be guilty of a felony and shall be
28 confined in the penitentiary for not less than two years.

29-31 Any voter asking or soliciting money from any candidate, be-
32 fore any primary or general election, shall be guilty of a mis-
33 demeanor, and upon conviction shall be fined not less than twenty-
34 five dollars nor more than fifty dollars and, upon failure to
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35 pay said fine, shall be confined in the county jail not to exceed
36 sixty days.

37 Nothing in this act shall prevent neighbors or friends going
38 to the polls in one another's vehicles provided it meets their con-
39 venience and is apparent that they are not violating the pro-
40 visions of this act.

41 All other acts inconsistent with this section are hereby re-
42 pealed.

House Bill No. 227

(By Mr. McCLINTIC, of Greenbrier)

[Introduced January 20, 1921; referred to the Committee on
Education.]

House Bill No. 227

A BILL to amend and re-enact chapter two, section fifty-seven of
the acts of the legislature of the year one thousand nine hun-

dred and nineteen; relating to legal holidays and the appointment of teachers.

Be it enacted by the Legislature of West Virginia:

That section fifty-seven, chapter two, known as the general school law be amended and re-enacted to read as follows:

That board of education shall on or before the first Monday in 2 July in each year, if practicable, appoint the principals and 3 teachers for all the schools in the district and shall fix their 4 salaries as provided by section fifty-six of this act. All such 5 appointments shall be in writing according to the form of contract to be furnished by the state superintendent of schools and 6 all such contracts, together with the certificates of the appointees, 7 shall be filed with the secretary of the board.

9 The board of education of any district or independent district 10 may suspend, or dismiss any principal or teacher appointed, for 11 immorality, incompetency, cruelty, insubordination, intemper- 12 ance or wilful neglect of duty, *provided*, that the charges be

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13 stated in writing and that the teacher be given an opportunity 14 to be heard by the board upon not less than ten days notice, 15 and *provided*, that in all cases when the board is not unanimous 16 in its decisions to suspend or dismiss the principal or teacher, 17 the teacher or principal so suspended or dismissed shall have the 18 right of appeal to the state superintendent of schools. It is 19 *provided, however*, that any teacher who enters into a contract 20 with a board of education to teach in a public school and who 21 fails to complete the term of such contract, unless prevented from 22 doing so by personal illness or other just cause, unless released 23 from such contract by said board, shall be disqualified to teach 24 in any other public school in the state during the term of such 25 contract.

26 If any school is closed by the proper health authorities on 27 account of the prevalence of any contagious or infectious dis- 28 eases, the time during which such school is closed shall be counted 29 as if taught in determining whether the school has been main- 30 tained for the minimum term, and the teacher of such school 31 shall not be compelled to make up such time lost *provided* he 32 held himself in readiness to teach subject to the order of the 33 board.

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34 In making contracts with teachers or other employees of
 35 the board, it shall be understood that schools are not to be kept
 36 in operation for instruction on Saturday or on the following
 37 days which are hereby named and designated as school holi-
 38 days, namely: the fourth of July, commonly called Independence
 39 day; the last Thursday in November, commonly called Thanks-
 40 givingday; the twenty-fifth of December, commonly called
 41 Christmas day; and any day on which a general election is held
 42 throughout the state; and any day appointed or set apart by
 43 the governor or the president as a day of special observance by
 44 the people of the state; *provided*, that no teacher shall be re-
 45 quired to make up the time lost by the observance of the fourth
 46 of July, Christmas day and Thanksgiving day, but shall enter
 47 such day upon the report for the month as a holiday and count
 48 it as constituting one of the twenty days of the school month
 49 in making out the report for the month in which the holiday
 50 occurs, and said holidays shall be counted in determining the
 51 time required in the specifications of the contract; and *provided*,
 52 *further*, that on Washington's birthday the schools shall be open
 53 and shall devote a portion of the day to exercises bearing on
 54 the life and services of "the Father of Our Country", and that
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 55 arbor day, memorial day and armistice day, and any other
 56 special days shall be observed at such times and in such man-
 57 ner as the state board of education may determine.

House Bill No. 396

(BY MR. WYSONG.)

[Introduced January 25, 1921; referred to the Committee on the Judiciary.]

A BILL prohibiting sheriffs, deputy sheriffs, constables, policemen and other officers vested with the powers and duties of sheriffs, constables and policemen from acting as attorneys in criminal cases for persons charged with crime, and prescribing penalties therefor.

Be it enacted by the Legislature of West Virginia:

Section 1. That it shall be unlawful for any sheriff, deputy

2 sheriff, constable, policeman or other officer in this state vested
3 with the powers and duties of sheriffs, constables or policemen,
4 who as such sheriff, deputy sheriff, constable, policeman or other
5 officer vested with like powers and duties, receives a salary from
6 any county, district or municipality in this state, to act as at-
7 torney or counsel in any criminal case for any person charged with
8 crime in any of the courts of this state.

Sec. 2. Any such officer as is named in the first foregoing
2 section of this act, who shall violate the provisions thereof, shall
3 be deemed guilty of a misdemeanor and on conviction thereof be
4 fined not less than fifty nor more than five hundred dollars for
5 each and every such offense.

Senate Bill No. 331

(By MR. HARMAN)

[Introduced January 26, 1921; referred to the Committee on Roads
and Navigation.]

A BILL to provide for the licensing of motor vehicles operated on
public ways for the carriage of passengers for hire.

Be it enacted by the Legislature of West Virginia:

Section 1. No person or corporation shall, in any city or town,
2 operate any motor vehicle upon any public street or way, for the
3 carriage of passengers for hire, in such a manner as to afford a
4 means of transportation similar to that afforded by a street rail-
5 way company, by indiscriminately receiving and discharging pas-
6 sengers along the route on which the vehicle is operated or may be
7 running, or for transporting passengers for hire as a business be-
8 tween fixed and regular termini, without first obtaining a license
9 therefor from the licensing authority of such city or town. In a
10 town, such authority shall be the town council, and in a city, the
11 city council or corresponding body. Any such license issued in a
12 city shall be subject to the approval of the mayor, the city manager

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13 or corresponding officer and shall not be valid unless such approval
14 has been endorsed thereon in writing. Any person or corpora-

15 tion receiving a license under the provisions of this act and operat-
16 ing thereunder, is hereby declared to be a common carrier and
17 shall, in respect to the operation of such a vehicle, be subject to
18 such orders, rules or regulations as shall be adopted by the licensing
19 authority in any city or town under the provisions of this act.

Sec. 2. No license shall be granted under the provisions of this
2 act until orders, rules or regulations shall have been adopted by the
3 licensing authority in the city or town in which the vehicle is to
4 be operated, and any such authority may make such orders, rules
5 or regulations. No such motor vehicle shall be operated as afore-
6 said until the licensee of the vehicle, in addition to complying with
7 all rules, orders and regulations of the licensing authority of the
8 city or town in which the vehicle is to be operated, shall have de-
9 posited with the treasurer or recorder of the city or town in which
10 a license has been taken out, security by bond or otherwise, run-
11 ning to the city or town treasurer or recorder and approved by
12 him and by the licensing authority, in such sum as the licensing
13 authority may reasonably require, conditioned to pay any final
14 judgment obtained against the principal named in the bond for any
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15 injury to person or property or damage for causing the death of
16 any person by reason of any negligent or unlawful act on the part
17 of the principal named in said bond, his or its agents, employees
18 or drivers, in the use or operation of any such vehicle. Any per-
19 son so injured or damaged, or his executor or administrator, or the
20 executor or administrator of any person whose death was so
21 caused, may enforce payment of such a judgment by suit on said
22 bond in the name of the city or town treasurer, or recorder. Such
23 a bond shall be furnished in each city or town in which said motor
24 vehicle is licensed to operate, and shall, in each instance, be in ac-
25 cordance with the rules, orders and regulations of the licensing au-
26 thority in such city or town.

Sec. 3. Within thirty days from the adoption of any such
2 order, rule or regulation, or in the case of any order, rule, regula-
3 tion or ordinance adopted prior to the passage of this act within
4 thirty days after this act takes effect, any person or corporation,
5 operating such a motor vehicle, or a street railway company op-
6 erating a street railway in such city or town or any twenty resi-
7 dents of such city or town, may petition the public service commis-
8 sion for the alteration, amendment or revocation of such an order,

9 rule or regulation, and for the establishment or orders, rules or
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10 regulations to be thereafter observed by persons and corporations
11 operating such a motor vehicle upon any streets or ways in such
12 city or town. Said commission, upon such petition, may, after
13 notice to the licensing authority and a hearing alter, amend or re-
14 voke such an order, rule or regulation and establish in place there-
15 of orders, rules and regulations thereafter to be observed in such
16 city or town, and fix the amount, class and kind of the security, by
17 bond or otherwise, which licensees are required to give under the
18 provisions of this act. Said commission, may, upon its own in-
19 itiative or upon petition of any person, firm or corporation operat-
20 ing any such motor vehicle in such city or town, or a street rail-
20-a way company operating a street railway in such city or town, or
21 any twenty residents thereof, may thereafter, after notice to the li-
22 censing authority of such city, or town, alter or amend any order,
23 rule or regulation established by said commission or may adopt or-
24 ders, rules and regulations substitution thereof. Orders, rules and
25 regulations prescribed by said commission under the provisions of
26 this section shall not be subject to amendment or repeal by a city or
27 town or by the licensing authority thereof.

Sec. 4. Any street railway company, with the approval of the
2 public service commission may acquire, own and operate, for the
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3 transportation of passengers or freight, motor vehicles not run-
4 ning upon rails or tracks, but in such operation shall be subject
5 to the provisions of this act.

Sec. 5. Whoever violates any order, rule or regulation adopted
2 or established under the provisions of this act or violates any pro-
3 vision hereof shall be punished by a fine not exceeding one hun-
4 dred dollars or by imprisonment in the county jail for not more
5 than sixty days or by both such fine and imprisonment.

Sec. 6. The provisions of chapter one hundred and fifty of
2 Barnes' code of one thousand nine hundred and sixteen shall apply
3 to any order, rule or regulation established by said commission
4 under the provisions of this act, and any such order, rule or reg-
5 ulation may be enforced as herein provided.

6 All acts or parts thereof inconsistent therewith are hereby re-
7 pealed.

House Bill No. 289

(By MR. KNIGHT.)

[Introduced January 21, 1921; referred to the Committee on Education.]

House Bill No. 289

A BILL to amend and re-enact section one hundred and twenty-nine of chapter two of the acts of one thousand nine hundred and nineteen, regular session, relating to the attendance of children over fourteen years of age and under sixteen years of age at part-time or continuation schools or classes, and authorizing boards of education to establish and maintain part-time and continuation schools and classes.

Be it enacted by the Legislature of West Virginia:

That section one hundred and twenty-nine of chapter two of the acts of one thousand nine hundred and nineteen, regular session, relating to the attendance of children over fourteen years of age and under sixteen years of age at part-time or continuation schools or classes, and authorizing boards of education to establish and maintain part-time and continuation schools and classes, be amended and re-enacted so as to read as follows:

Children Over Fourteen and Under Sixteen Shall Attend Part-time or Continuation Schools or Classes.

Section 129. Every person who has legal or actual charge of a child or children over fourteen and under sixteen years of age

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3 shall cause such child or children to attend a public part-time
4 or continuation school or classes for at least one hundred and
5 forty-four hours each school year; *provided, however*, that such
6 person shall be exempt from the foregoing requirement for any
7 of the causes enumerated from (a) to (i) inclusive in section one
8 hundred and twenty-two of chapter two of the acts of one thousand
9 nine hundred and nineteen, regular session.

10 Whenever twenty-five or more persons over fourteen years of
11 age and under eighteen years of age qualified to attend part-time or
12 continuation schools or classes petition a board of education to pro-
13 vide such instruction, such board of education shall establish and

14 maintain the same for at least four hours a week while the regu-
15 lar schools are in session and for at least one hundred and forty-
16 four hours in each school year, instruction in such schools or
17 classes to be given between the hours of eight A. M. and six P. M.

18 The employer of any minor over fourteen years of age and
19 under sixteen years of age who is required to attend a part-time
20 or continuation school or classes as defined in this act, shall cease
21 forthwith to employ such minor during the hours said minor is
22 required to attend such schools or classes when notified in writ-
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24 such minor's school attendance.

25 The penalties for any violations of the provisions of this sec-
26 tion and of section one hundred and twenty-eight of chapter two
27 of the acts of one thousand nine hundred and nineteen, regular
28 session, and for the failure of any officer to enforce the provisions
29 of such sections shall be the same as prescribed in sections one
30 hundred and twenty-six and one hundred and twenty-five respec-
31 tively of said chapter; and, the requirements of this section and
32 the preceding section shall be enforced by the persons and in the
33 manner prescribed for the enforcement of the requirements of
34 section one hundred and twenty-three to one hundred and twenty-
35 seven inclusive of chapter two of the acts of one thousand nine
36 hundred and nineteen, regular session.

House Bill No. 461

(By MR. FLYNN.)

[Introduced January 25, 1921; referred to the Committee on
Taxation and Finance.]

House Bill No. 461.

A BILL to provide for the conservation of natural gas and direct-
ing the payment of any surcharge rate now or hereafter ordered
by the public service commission against consumers thereof into
the state treasury.

Be it enacted by the Legislature of West Virginia:

Section 1. That for the purpose of conservation, preventing

2 waste and extravagant use of the natural gas of this state, the
3 public service commission of West Virginia is authorized and em-
4 powered to impose a surcharge in excess of the maximum or base
5 rate and quantity established by them as to the quantity of gas
6 used by persons, firms or corporations and the rate per thousand
7 feet to be paid therefor by such persons, firms or corporations for
8 normal use to be as prescribed by said commission.

Sec. 2. The surcharge for excessive or extravagant use or in
2 excess of the amount so prescribed for any one month by said
3 commission shall not exceed fifty per cent above said maximum
4 or base rate established by them for normal use for any one
5 month, and such surcharge for excessive use shall be collected by

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6 said public service commission, and paid by them into the state
7 treasury for the benefit of the public schools.

House Bill No. 290

(BY MR. KNIGHT.)

[Introduced January 21, 1921; referred to the Committee on
Education.]

House Bill No. 290

A BILL to amend and re-enact section two of chapter two acts of
one thousand nine hundred and nineteen, regular session.

Be it enacted by the Legislature of West Virginia:

That section two of chapter two, acts of one thousand nine hundred
and nineteen, regular session, be amended and re-enacted so as to
read as follows:

School Year.

Section 2. The school year shall begin on the first day of July
2 and end on the thirtieth day of June, and all reports, accounts
3 and settlements respecting the free schools shall be made with
4 reference to the school year. The word "year" used in this chap-
5 ter and in by-laws and proceedings pursuant thereto shall be con-
6 strued to mean school year as defined in this section, unless other-
7 wise specifically provided.

House Bill No. 63

(By MR. BARNES)

[Introduced January 17, 1921; referred to the Committee on the Judiciary.]

Senate Bill No. 256

(By MR. JOHNSON)

[Introduced January 25, 1921; referred to the Committee on Finance.]

House Bill No. 63

A BILL to amend and re-enact sections one, five, six, seven, nine, fifteen, sixteen, twenty-eight, thirty, thirty-nine, forty-four, forty-five, forty-six, forty-seven and fifty, of chapter one hundred and twenty-five of the code of West Virginia, and to add thereto section nine-a and to repeal sections two and fifty-three of that chapter, concerning pleading and practice in the courts.

Be it enacted by the Legislature of West Virginia:

That sections two and fifty-three of chapter one hundred and twenty-five of the code of West Virginia be and the same are hereby repealed; and that sections one, five, six, seven, nine, fifteen, sixteen, twenty-eight, thirty, thirty-nine, forty-four, forty-five, forty-six, forty-seven and fifty of chapter one hundred and twenty-five of the code of West Virginia be amended and re-enacted and that section nine-a be added thereto, so as to read as follows:

Section 1. In the clerk's office of every circuit court, rules shall
 2 be held on the first and third Mondays of each month, whether the
 3 court be in session or not, except that when the term of a circuit
 4 court happens to commence on the first or third Monday in a
 5 month, or on the following day, the rules which would otherwise
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 6 have been held on the first or third Monday, as the case may be,
 7 shall be held on the Monday of the preceding week. The rules
 8 shall continue two days.

Sec. 5. The rules may be to declare, plead, reply, rejoin, or for
 2 other proceedings. They shall be given from one rules to the next.

Sec. 6. If, at any time after the appearance of a defendant,
 2 the plaintiff fails to prosecute his suit he shall be nonsuited, and
 3 pay the defendants, besides his costs, five dollars.

Sec. 7. If the declaration or bill be not filed at the first rule
 2 day after the process is returned executed, as to any one or more
 3 of the defendants, the clerk shall enter the suit dismissed, although
 4 none of the defendants may have appeared.

Sec. 9. Pleadings shall be liberally construed with a view to
 2 obtaining substantial justice between the parties. When the dec-
 3-5 laration sets forth sufficient matter for the court to proceed upon
 6 the merits of the case, no action shall abate for want of form.
 7 And where the plaintiff has mistaken his form of action, the court
 8 shall, at any time before a verdict, without dismissing the case,
 9 allow the declaration to be amended to conform to the proper form
 10 of action, and grant such postponement or continuances as may
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 11 may seem just.

Sec. 9-a. When it shall appear that there is a misjoinder of
 2 parties in any action or suit, the court shall allow the case to be
 3 dismissed at any time as to any misjoined plaintiff or defendant,
 4 and the case shall proceed to trial; and in any case where there is
 5 a non-joinder of parties the court shall allow the pleadings to
 6 be amended by adding thereto the proper parties, but without dis-
 7 missing the action or suit, and shall grant such continuances and
 8 award process and costs as may seem just.

Sec. 15. In all other cases, the defendants on whom process
 2 summoning him to answer in any suit or action, appears to have
 3 been served, shall not be allowed to take advantage of any variance
 4 in such writ from the declaration. And no advantage shall be
 5 taken of any defect or imperfection in the writ or summons, nor
 6 of the return thereto, unless the same be pleaded in abatement.
 7 And in every such case the court shall always permit the writ or
 8 summons to be amended so as to perfect the same, and shall al-
 9 low the return to be amended to conform with the fact of service,
 10 upon such terms as shall seem just.

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Sec. 16. Where the declaration or bill shows on its face proper
 2 matter for the jurisdiction of the court, no exceptions for want of
 3 such jurisdiction shall be allowed, unless it be by plea in abate-
 4 ment. But no plea in abatement, upon any ground, shall be re-

5 ceived after the defendant has demurred, pleaded in bar, or an-
 6 swered to the declaration or bill, nor later than the succeeding rules
 7 after the declaration or bill has been filed, unless it be upon matter
 8 arising *purs darrein* continuance.

Sec. 28. No particular form of a demurrer shall be required;
 2 but all demurrers, whether at law or in equity, shall be in writing,
 3 and shall specifically assign the grounds thereof.

Sec. 30. A plaintiff in equity may have a plea or demurrer set
 2 down for argument. If the same be overruled, no other plea or
 3 demurrer shall afterwards be received, but the court shall, if either
 4 party desire it, fix a day upon which the defendant shall answer
 5 the bill, and in default thereof, the bill may be taken for confessed,
 6 and the matter thereof decreed upon; or the plaintiff may proceed
 7 against such defendant in the manner prescribed by section forty-
 8 eight of this chapter.

Sec. 39. No plea in abatement or plea of *non est factum* shall
 2 be received, unless it be verified by affidavit. And in all cases, in-
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3 cluding those in which the defendant is a corporation, the plea in
 4 abatement may be verified by the attorney or agent of the defend-
 5 ant.

Sec. 44. If a defendant on whom process has been served fail
 2 to plead, answer or demur to the declaration or bill, at the first rule
 3 day after the declaration or bill is filed, or where the process is
 4 returned to a term, at the first rule day after it is returned exe-
 5 cuted, the plaintiff, if he has filed his declaration or bill, shall have
 6 a conditional judgment or decree nisi as to such defendant. No
 7 service of such conditional judgment or decree nisi shall be neces-
 8 sary. But at the next rule day after the same is entered, if the de-
 9 fendant continues in default, if the case be in equity, the bill shall
 10 be entered as taken for confessed as to him, and, if at law, judg-
 11 ment shall be entered against him, with an order for the damages
 12 to be inquired into, when such inquiry is necessary.

Sec. 45. There need be no such inquiry in any action upon a
 2 bond or other writing for the payment of money, or against the
 3 drawer or endorser of a bill of exchange or negotiable note, or in
 4 an action of scire facias upon a judgment or recognizance, or in
 5 any action upon an account, wherein the plaintiff shall serve the
 6 defendant, at the same time and in the same manner that the pro-

cess or summons to commence the suit or action is served, with a copy (certified by the clerk of the court in which the suit or action is brought) stating distinctly the several items of his claim, and the aggregate amount thereof, and the time from which he claims interest thereon, and the credits, if any, to which the defendant may be entitled. But this section shall not apply to any action on an account in which the process is served by publication.

Sec. 46. Every judgment entered in the clerk's office, in a case where there is no order for an inquiry of damages, shall, if not set aside as provided in the next succeeding section, be a final judgment. And every non-suit or dismissal entered therein, shall be final, if not set aside within the time prescribed in the next succeeding section. If the action in which such judgment is entered be one for the recovery of money arising out of contract and the plaintiff, or his agent, has filed with his declaration (which in all cases he may do) an affidavit stating that there is, as he verily believes, due and unpaid from the defendant to him upon the demand or demands stated in the declaration, including principal and interest, after deducting all payments, credits and sets-off made by the defendant, and to which he is entitled, a sum certain to be named in the affidavit, no plea shall be filed in the case, unless

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the defendant, or his agent, shall file with the plea, his affidavit stating that there is not, as he verily believes, any sum due from him to the plaintiff upon the demand or demands in the plaintiff's declaration; or stating a sum certain, less than that stated in the affidavit of the plaintiff which he verily believes, is all that is due from the defendant to the plaintiff upon the demand or demands stated in the plaintiff's declaration. If such plea and affidavit be not filed, judgment shall be entered for the plaintiff by the court for the sum stated in his affidavit, with interest thereon from the date of the affidavit till paid; and should the court adjourn without the actual entry of such judgment, the same may be entered by the clerk thereof in vacation, which shall have the same force and effect as a judgment entered by the court in term time. If such plea and affidavit be led by the defendant, or his agent, and if it be admitted in such affidavit that any such sum is due from the defendant to the plaintiff, judgment may be taken by the plaintiff for the sum so admitted to be done, with interest thereon from the date of plaintiff's affidavit till paid and the case tried as to the res-

33 idue. If the plaintiff, or his agent, has not filed such affidavit with
34 his declaration, and the office judgment in the case be not set aside,
35 the judgment shall not be entered by the court, or the clerk, until

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36 the plaintiff, or his agent, files such affidavit or proves his case in
37 open court, whereupon the judgment in either case shall be entered
38 as heretofore provided for. If the case be one arising out of con-
39 tract in which there is an order for an inquiry of damages, and
40 the plaintiff, or his agent, had filed with his declaration the affi-
41 davit hereinbefore mentioned, no plea shall be filed in the case
42 either at rules or in court, unless the defendant, or his agent, shall
43 file therewith the affidavit hereinbefore required to set aside an
44 office judgment in which no order for an inquiry of damages had
45 been made. When a jury is impaneled to execute an order for an
46 inquiry of damages, their oath shall be that they will well and
47 truly find the amount, if any, which the plaintiff is entitled to re-
48 cover in the action, and a true verdict render according to the ev-
49 idence. And the affidavit of the plaintiff, or his agent, hereinbe-
50 fore mentioned, shall be legal evidence on such inquiry.

Sec. 47. The defendant may move to set aside a non-suit or
2 dismissal entered in the clerk's office, within the first three days of
3 the succeeding term of court. And if a defendant against whom
4 a judgment is entered in the clerk's office, whether an order for an
5 inquiry of damages has been entered therein or not, shall, at the
6 first term of court after such office judgment is entered, and within

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7 the first three days of the term, if the court should continue that
8 long, and if not then within the rst three days of the next session
9 of the court, whether a continued, special or regular session, ap-
10 pear and plead to issue, or file a plea to issue at rules, which he
11 may do, notwithstanding the provisions of section forty-four of
12 this chapter, and shall, in the cases mentioned in the next preced-
13 ing section in which an affidavit is required, file such affidavit with
14 his plea, the judgment shall be set aside. Any issue raised by such
15 plea may be tried at the same term, unless the defendant show by
16 affidavit, filed with the papers, good cause for a continuance. But
17 the plaintiff shall have the right to cross-examine the defendant,
18 upon the matters contained in such affidavit. And in all cases not
19 covered by this section, in order to prevent surprise and delay,

20 the court may prescribe the time in which pleadings, notices, mo-
21 tions and counter-claims may be filed in court in a suit.

Sec. 50. A plaintiff in equity may, at or after the rule day at
2 which the bill is taken for confessed as to any defendant, or at
3 which his answer is filed, or whenever the execution of an order of
4 publication against his is completed, have the cause set for hear-
5 ing as to such defendant; and it may be set for hearing on the an-
6 swer or upon a general replication thereto, as the plaintiff may

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7 prefer. If one month elapse after the answer of the defendant is
8 filed without being so set for hearing, and without exceptions be-
9 ing filed to his answer, he may have the cause set for hearing as to
10 himself.

11 Sections two and fifty-three of this chapter are hereby repealed.

12 All acts, and parts of acts, inconsistent herewith are hereby re-
13 pealed.

ENGROSSED

COMMITTEE SUBSTITUTE FOR

House Bill No. 376

(BY MR. HERSMAN, of Roane)

A BILL providing for the payment to the county commissioners for
services performed, other than for services in court, in counties
having a population of less than twenty-five thousand inhabitants.

Section 1. There shall be allowed and paid out of the county
2 treasury, as other salaries are paid, beginning on the first day of
3 January, one thousand nine hundred and twenty-one, to each
4 county commissioner in each county, which has now, or may have
5 at any decennial census of the United States, less than twenty-
6 five thousand inhabitants, for services performed for such county,
7 concerning roads, bridges and other county business by said com-
8 missioners (other than services in court) the sum of twenty-five
9 dollars per month for each month of their terms of service re-
10 spectively.

Sec. 2. It shall be the duty of the county commissioners of each

2 such counties to visit and inspect monthly, and oftener if needed,
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3 all roads and bridge construction therein, and from time to time
4 to visit and inspect all the roads of the county and the county in-
5 firmary or poor farm.

Sec. 3. All acts and parts of acts in conflict herewith are hereby
2 repealed.

House Bill No. 529

(BY MR. DEULEY.)

[Introduced January 26, 1921. Referred to the Committee on the
Judiciary.]

House Bill No. 529

A BILL to amend and re-enact sections 11 and 12-a and by addition
of Section 32-c of the acts of the Legislature of West Virginia
passed February 16th, one thousand nine hundred and fifteen in
reference to the charter to the city of Follansbee.

Be it enacted by the Legislature of West Virginia:

That sections 11 and 12-a of the charter of the city of Follansbee,
2 and by addition of section 32-c, to be amended and re-enacted so as
3 to read as follows:

House Bill No. 218

(BY MR. LANTZ.)

[Introduced January 20, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 218

A BILL to provide for the submission to the voters of the state of
an amendment to the constitution of the state of West Virginia,
amending section twenty-nine of article eight.

Be it enacted by the Legislature of West Virginia:

Section 1. That the question of the ratification or rejection of an amendment to the constitution of West Virginia, to be held in accordance with the provision of section two of article fourteen of said constitution, shall be submitted to the voters of the state at the next general election, to be held in the year one thousand nine hundred and twenty-two, which proposed amendment is as follows:

That section twenty-nine of article eight of the constitution of the state of West Virginia be amended so as to read as follows:

Sec. 29. The legislature shall, upon the application of any county, reform, alter or modify the county court established by this article in such county, and in lieu thereof, with the assent of a majority of the voters of such county voting at an election, create another tribunal for the transaction of the business required to be performed by the county court created by this article; and in such case all the provisions of this article in relation to the county court shall be applicable to the tribunal established in lieu of said court, except that additional duties may be given said tribunal, and the compensation of the members thereof shall be prescribed by law. And when such tribunal has been established it shall continue to act in lieu of the county court until otherwise provided by law.

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Sec. 2. For convenience in referring to said proposed amendment, and in the preparation of the form of the ballots hereinafter provided for, said proposed amendment is hereby designated as follows: To be known as "county court amendment."

Sec. 3. For the purpose of enabling voters of the state to vote on the question of the said proposed amendment to the constitution at the general election to be held in the year one thousand nine hundred and twenty-two, the board of ballot commissioners for each county is hereby required to prepare separate ballots from that of the official ballot to be voted at said election, and print thereon the following:

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County Court Amendment.

[] For ratification of amendment.

[] Against ratification of amendment.

The said election of the proposed amendment at each place of voting shall be superintended, conducted and returned, and the re-

13 sult thereof ascertained by the same officers and in the same man-
 14 ner as the election of officers to be voted for at said election; and
 15 all the provisions of the law relating to general elections, including
 16 all duties to be performed by any officer of the board as far as ap-
 17 plicable and not inconsistent with anything herein contained, shall
 18 apply to the election under the provisions of this act, except when
 19 it is herein otherwise provided. The ballots cast upon the ques-
 20 tion of said proposed amendment shall be counted as other ballots
 21 cast at said election.

Sec. 4. As soon as the result is ascertained the commissioners,
 2 or a majority of them, at each place of voting, shall make out and
 3 sign two certificates thereof in the following form or to the fol-
 4 lowing effect: "We, the undersigned, who acted as the commis-
 5 sioners of the election held at.....in the district of
 6, in the county of.....on the....
 7 day of, one thousand nine hundred and twenty-
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 8 two, upon the question of the ratification or rejection of the pro-
 9 posed amendment to section twenty-nine of article eight of the
 10 constitution of West Virginia, do hereby certify that the result of
 11 said election is as follows:

12 *County Court Amendment.*

13 For ratification of amendment.....votes.

14 Against ratification of amendmentvotes.

15 Given under our hands this.....day of.....,
 16 one thousand nine hundred and twenty-two.

17 The said two certificates shall correspond with each other in all
 18 respects, and contain the full and true returns of said election at
 19 each place of voting on said question. The said commissioners,
 20 or any one of them, shall within four days, excluding Sunday, after
 21 that on which said election was held, deliver one of said certificates
 22 to the clerk of the county court of his county, together with the
 23 ballots, and the other to the clerk of the circuit court of the county.
 24 The said certificates, together with the ballots cast on the question
 25 of said proposed amendment, shall be laid before the commissioners
 26 of the county court at the court house, at the same time the bal-
 27 lots, poll-books and certificates of election for members of the leg-
 28 islature are laid before them; and as soon as the result of said
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29 election in the county, upon the question of ratification or rejection
 30 is ascertained, two certificates of such result shall be made out and

31 signed by said commissioners, as a board of canvassers, in the form,
32 or to the following effect:

33 We the board of canvassers of the county of.....,
34 having carefully and impartially examined the returns of the elec-
35 tion held in said county and in each district thereof on the.....
36 day of....., one thousand nine hundred and twenty-
37 two, do certify that the result of the election in said county on the
38 question of ratification or rejection of the proposed amendment
39 of section twenty-nine of article eight of the constitution is as fol-
40 lows:

41 For ratification of amendment.....votes.

42 Against ratification of amendment.....votes.

43 Given under our hands this the.....day of....., one
44 thousand nine hundred and twenty-two.

45 One of the certificates shall be filed in the office of the clerk of the
46 county court, and the other forwarded by mail to the secretary of
47 state, who shall file and preserve the same until the day on which
48 the result of said election in the state is to be ascertained as here-
49 inafter provided.

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Sec. 5. On the twenty-fifth day after the election is held, or
2 as soon thereafter as practicable, the said certificates shall be laid
3 before the governor, whose duty it shall be to ascertain therefrom
4 the result of said election in the state, and declare the same by
5 proclamation. published in one or more newspapers printed at the
6 seat of government.

7 If a majority of the votes cast at said election upon said question
8 be for the county court amendment, the proposed amendment so
9 ratified is and shall be in force and effect from and after the rati-
10 fication of the same by the voters of the state, as a part of the con-
11 stitution of the state.

Sec. 6. The governor shall cause the said proposed amendment,
2 with the proper designation for the same, as hereinbefore adopted,
3 to be published at least three months before such election, in some
4 newspaper in every county of the state in which a newspaper is
5 printed, at a price to be agreed upon in advance in writing, and the
6 cost of such advertising, in the first instance, if found necessary by
7 him, be paid out of the governor's contingent fund, and be after-
8 wards repaid to such fund by proper appropriation of the legis-
9 lature.

House Bill No. 84

(By MR. WEISS)

[Introduced January 19, 1921; referred to the Committee on Labor.]

House Bill No. 84

A BILL to protect the public health and welfare, by regulating the employment of females in certain establishments, with respect to their hours of labor and the conditions of their employment; by establishing certain sanitary regulations in the establishments in which they work; by requiring certain abstracts and notice to be posted; by providing for the enforcement of this act by the commissioner of labor, who shall also provide for a woman inspector to assist with its enforcement; by prescribing penalties for violations thereof; by defining the procedure in prosecutions.

Be it enacted by the Legislature of West Virginia:

Section 1. That the term "establishment," when used in this act, shall mean any place within this state where work is done for compensation of any sort, to whomever payable; *provided*, that this act shall not apply to work in private homes and farming.

The term "person," when used in this act, shall be construed to include any individual, partnership, or other unincorporated association, corporation, and municipality.

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The term "week," when used in this act, shall mean any twenty-four consecutive hours.

Sec. 2. Whenever in this act the singular is used the plural shall be included, and whenever the masculine gender is used the feminine and neuter shall be included.

Sec. 3. No female shall be employed or permitted to work in, or in connection with, any establishment for more than six days in any one week, or more than forty-eight hours in any one week, eight hours to constitute a day's work.

Whenever any female shall be employed or permitted to work in, or in connection with, more than one establishment in any one week or in any one day, the aggregate number of hours during which she shall be employed or permitted to work in,

9 or in connection with, such establishment shall not exceed the
10 number of hours prescribed in this section for such females in
11 any one week or any one day.

Sec. 4. No female shall be employed or permitted to work
2 in any manufacturing establishment before the hour of six o'clock
3 in the morning, or after the hour of ten o'clock in the evening,
4 of any day; except in emergencies where continuous operation
5 is necessary.

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Sec. 5. Not less than forty-five minutes shall be allowed every
2 female employed or permitted to work in, or in connection with,
3 any establishment, for the mid-day meal, which period shall not
4 be considered a part of the hours of labor: *Provided*, that,
5 whenever any female shall be employed or permitted to work in,
6 or in connecton with, any establishment for less time than eight
7 hours in any one day, the time allowed for the mid-day meal
8 may be reduced to not less than thirty minutes.

9 Employees shall not be required to remain in the work-rooms
10 during the time allowed for meals.

Sec. 6. No female shall be employed or permitted to work
2 for more than six hours continuously in, or in connection with,
3 any establishment, without an interval of at least forty-five
4 minutes, and no period of less than forty-five minutes shall be
5 deemed to interrupt a continuous period of work; *provided*, that
6 whenever any female shall be employed or permitted to work in,
7 or in connection with, any establishment for less than eight
8 hours in any one day; the interval between work-periods may
9 be reduced to not less than thirty minutes.

10 Employees shall not be required to remain in the work-rooms
11 during the rest periods required by this section.

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Sec. 7. Any person employing or permitting any female to
2 work in any establishment where white lead, arsenic or other poi-
3 sonous substances, or injurious fumes, dust or gases, shall be pre-
4 sent, shall provide and maintain a suitable room, free from the
5 aforesaid substances, fumes, dust and gases, for the use of said fe-
6 male employees, during meal hours, and no person shall, during
7 the time allowed, permit any such female to remain in any room
8 where the aforesaid substances, fumes, dust and gases, shall be
9 be present.

Sec. 8. Any person who shall employ or permit any female to
 2 work in any establishment in which poisonous or injurious dust,
 3 fumes, or gases shall be created by machinery or material in pro-
 4 cess of manufacture shall provide proper hoods and pipes con-
 5 nected with exhaust-fans of sufficient capacity to remove such dust,
 6 fumes or gases at their point of origin, and prevent them from
 7 mingling with the air in the room, and such fans shall be kept run-
 8 ning constantly while such dust, fumes, or gases shall be generated.

Sec. 9. Any person employing any female in any establishment
 2 shall at all times provide a sufficient supply of clean and pure
 3 drinking water. The water shall be supplied through proper pipe
 4 connections with water mains which furnish water for domestic
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5 purposes, or from a spring or well, or body of pure water. If
 6 drinking water be placed in receptacles in the establishment, such
 7 receptacles shall be properly covered to prevent contamination, and
 8 shall at all times be kept thoroughly clean: *Provided*, that no em-
 9 ployer in any establishment shall collect from any such female em-
 10 ployee any money for ice furnished in his establishment for drink-
 11 ing purposes, for the use of the employees.

Sec. 10. Every person employing or permitting any female to
 2 work in any establishment shall keep posted, in a conspicuous place
 3 in the room where such female shall be employed or permitted to
 4 work, a printed abstract of the provisions of this act, and a sched-
 5 ule of the hours of labor of such female: *Provided*, that when any
 6 female shall be employed or permitted to work in more than one
 7 room in any establishment, the aforesaid abstract and schedule
 8 shall be required in only one of the said rooms. If any female
 9 shall be employed or permitted to work in connection with any es-
 10 tablishment, but not in such establishment, the aforesaid abstract
 11 and schedule shall be kept posted in a conspicuous place in the
 11-a office of such establishment.

12 The schedule of hours of labor herein required shall contain the
 13 name of the female employed or permitted to work, the maximum

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14 number of hours such female shall be required or permitted to
 15 work on each day of the week, with the total for the week, the
 16 hours of commencing and stopping work, and the hours when the
 17 time allowed for meals shall begin and end for each day of the
 18 week.

19 The commissioner of labor shall prepare the abstract of the pro-
20 visions of this act, and a form for the schedule of hours of labor
21 required by this section. Copies of such abstract and such form
22 shall be printed, and the commissioner of labor shall supply the
23 same, upon application, to all persons required to post the abstract
24 and schedule aforesaid.

Sec. 11. All rooms, buildings, and places in this state where
2 labor is employed or shall hereafter be employed, shall be so con-
3 structed, equipped and arranged, operated and conducted, in all
4 respects, as to provide reasonable and adequate protection for the
5 life, health, safety, and morals of all persons employed therein.

Sec. 12. For the carrying into effect of the provisions of this
2 act, and the provisions of all the laws of this state, the enforcement
3 of which is now or shall hereafter be intrusted to, or impased upon
4 the bureau of labor, the commissioner of labor shall have power
5 to make, alter, amend, and repeal general rules and regulations
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6 tions necessary for applying such provisions, to specify conditions,
7 and to prescribe means, methods and practices to carry into effect
8 and enforce such provisions.

Sec. 13. It shall be the duty of the commissioner of labor
2 and his deputies to enforce all the provisions of this act. They
3 shall visit and inspect establishments, and shall have power at any
4 reasonable time to visit and inspect any establishment in or in
5 connection with which any female shall be employed or permitted
6 to work. They shall investigate all complaints of violations of
7 this act received by them, and shall institute prosecutions for
8 violations thereof.

Sec. 14. A woman inspector, one who has had not less than
2 ten years practical experinece, shall be provided to assist in the en-
3 forcement of the provisions of this act, and all other laws for
4 women and children whose enforcement is intrusted to the bureau
5 of labor.

Sec. 15. All prosecutions for violations of this act shall be
2 reported to the prosecuting attorney of the county in which the vi-
3 olation accurs, by the commissioner of labor or his deputies;
4 whereupon said prosecuting attorney shall proceed against the
5 guilty persons thereof, as in any other cases of misdemeanor;

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6 *provided*, if the prosecuting attorney fails in the discharge of his

7 duty, the commissioner of labor may call upon the attorney general
8 to act instead. Upon a conviction after hearing, the penalties
9 provided in this act shall be imposed, and shall be final, unless an
10 appeal be taken to a higher court within twenty days after the im-
11 position of the penalties aforesaid.

Sec. 16. Any employee or employer who shall violate any pro-
2 visions of this act, shall be guilty of a misdemeanor.

3 Upon conviction for a violation of any provision of this act, he
4 shall be punished, for a first offense by a fine of not less than ten
5 dollars or more than fifty dollars; for a second subsequent offense,
6 by a fine of not less than twenty-five dollars or more than two
7 hundred dollars, or by imprisonment for not more than sixty days,
8 or by both, at the discretion of the court; and whenever any person
9 shall have been notified by the commissioner of labor or his deputy
10 that he is violating such provision, he shall be punished by like
11 penalties in addition for each and every day that such violation
12 shall have continued after such notification:

13 *Provided*, (1) That whenever a violation of any provision of this
14 act shall also be a violation of another provision, or other provis-
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15 ions, of this act, penalties may be imposed for the violation of each
16 and every such provision.

17 (2) That under no circumstances shall any person be sentenced
18 to imprisonment for more than one year for any one violation of
19 this act.

20 (3) That whenever a violation of any of the provisions of this
21 act shall also be a violation of the laws of this state regulating the
22 hours of labor and conditions of employment of minors, penal-
23 shall be imposed under only one of such acts.

Sec. 17. All fines collected for violations of this act shall be
2 paid into the common school fund of the county in which the of-
3 fense was committed.

Sec. 18. Nothing in this act shall be construed to prevent fe-
2 males of any age from receiving industrial training or other educa-
3 tion in, or in connection with, any school or educational institution
4 in this state. Each section of this act and every part thereof is
5 hereby declared to be an independent section, or part of a section,
6 and if any section, sub-section, sentence, clause or phrase of this
7 act shall for any reason be held unconstitutional, the validity of

8 the remaining phrases, clauses, sentences, sub-sections, and sec-
 9 tions of this act shall not be affected thereby.

12

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Sec. 19. The provisions of this act shall be come effective
 2 within ninety days after date of its passage, and as soon as possible
 3 thereafter the commissioner of labor shall cause a printed copy
 4 thereof to be transmitted to each employer of female labor in this
 5 state.

House Bill No. 28

(By Mr. MILLER, by request)

[Introduced January 17, 1921; referred to the Committee on Fish
 and Game.]

House Bill No. 28

A BILL to amend and re-enact section twenty-four of chapter sixty-
 two of Barnes' code of West Virginia of one thousand nine hun-
 dred and sixteen.

Be it enacted by the Legislature of West Virginia:

That section twenty-four of chapter sixty-two of Barnes' Code of
 West Virginia of one thousand nine hundred and sixteen be amended
 and re-enacted to read as follows:

Unlawful Possession or Sale of Game.

Section 2. It shall be unlawful for any person to buy,
 2 sell or have in possession any of the animals, wild fowl
 3 or birds mentioned in section twenty-three of this chapter,
 4 at any time when the killing, trapping, netting and snaring
 5 of such animals, wild fowl or birds shall be unlawful, or
 6 which shall have been killed, trapped, netted or snared con-
 7 trary to the provisions of this chapter. And it shall further be
 8 unlawful for any person, or persons, firm or corporation, at any
 9 time to purchase or offer to purchase, or to sell or expose for sale,
 10 or have in his, or their possession for the purpose of selling, any
 11 quail, ruffed grouse, or pheasant, woodcock, wild turkey, wild

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12 geese, swan, brant, wild ducks of any kind, plover, snipe sand-

13 piper squirrel, rabbit, deer, or venison; trout of any species,
14 salmon of any species, pike, bass or silver perch or any of the birds,
15 fish or game prohibited to be caught or killed at any time by the
16 provisions of this chapter, and it shall be unlawful for any person
17 or persons, firm or corporation, or common carrier, to receive for
18 transportation, or to transport, carry or convey, any quail, ruffed
19 grouse or pheasant, woodcock, wild turkey, wild geese, swan,
20 brant, wild duck of any kind, plover, snipe, sandpiper, rabbit,
21 squirrel, deer or venison or game fishes mentioned in this section,
22 that shall have been caught, snared, taken, trapped or killed at
23 any time, within the limits of this state, knowing, or having rea-
24 son to believe, the same had been sold, or to transport, carry or
25 convey the same outside of this state for any purpose; *provided*,
26 that it shall be unlawful to have any such game animals, birds or
27 fishes in possession for a period not exceeding twenty days after the
28 open season thereof is ended and the closed season thereon has be-
29 gun. Any person, or persons, firm or corporation, guilty of vio-
30 lating any of the provisions of this section, shall be deemed guilty
31-32 of a misdemeanor, and on conviction thereof, shall be fined not
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33 less than twenty-five dollars nor more than one hundred dollars
34 for each and every offense, and the costs of the prosecution. And
35 in default of the payment of such fine and costs, shall be confined
36 in the county jail until the same is paid; not to exceed, however,
37 the period of sixty days. The selling, exposing for sale, having
38 in possession for sale, transporting or carrying and conveying, con-
39 trary to the provisions of this section, of each and every animal,
40 fish or bird mentioned in this section, shall constitute a separate
41 offense.

House Bill No. 41

(BY MR. GRISSINGER.)

[Introduced January 17, 1921; referred to the Committee on
Mines and Mining.]

House Bill No. 41

A BILL requiring the owners of coal mines and other employers of
labor to erect and maintain wash houses at certain places where

laborers are employed, for the protection of the health of the employees, and providing a penalty for its violation:

Be it enacted by the Legislature of West Virginia:

Section 1. That for the protection of the health of employees hereinafter mentioned it shall be the duty of the owner, operator, lessee, superintendent of, or other person in charge of every coal mine or colliery, or other place where laborers employed are surrounded by or affected by similar conditions as employees in coal mines, at the request in writing of twenty or more employees of such mine or place, or in event there are less than twenty men employed, then upon the written request of one-third of the number employees employed, to provide a suitable wash room or wash house for the use of persons employed, so that they may change their clothing before beginning work, and wash themselves, and change their clothing after working. That said building or room shall be a separate building or room from the engine or

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boiler room, and shall be maintained in good order, be properly lighted and heated, and be supplied with clean cold and warm water, and shall be provided with all necessary facilities for persons to wash, and also provided with suitable lockers for the safe keeping of clothing: *Provided, however*, that the owner, operator, lessee, superintendent or other person in charge of such mine or place as aforesaid shall not be required to furnish soap or towels. *Provided, further*, that for the purpose of maintaining said wash house, so constructed, each employee shall be assessed and pay into a fund for the purpose, the sum of twenty-five cents per month, to be deducted from wages due.

Sec. 2. . If any person, persons, or corporation shall neglect or fail to comply with the provisions of this act, or shall maliciously injure or destroy or cause to be injured or destroyed, said building or room, or any part thereof or any of its appliances or fittings used for supplying light, heat or water therein, or shall do any act tending to the injury or destruction thereof, he or they shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not to exceed five hundred dollars, to which fine may be added imprisonment in the county jail not to exceed sixty days.

House Bill No. 274

[BY MR. ZIMMERMAN.]

[January 21, 1921. Introduced by Mr. Zimmerman; reference to committee dispensed with; bill read a first time and ordered to second reading.]

House Bill No. 274

A BILL to amend and re-enact section one of chapter sixty of the Acts of the Legislature of West Virginia at the regular session of 1917, authorizing additional levies for the completion of a new court house in any county, or to make permanent repairs to any court house now in use, and to complete the same under existing law."

Be it enacted by the Legislature of West Virginia:

That section one of chapter sixty of the Acts of the Legislature of West Virginia at the regular session of 1917 be amended and re-enacted to read as follows:

Section 1. That the county court of any county wherein the
2 construction of a new court house has been begun, or any court
3 house now in use is in need of permanent repairs, and for which
4 the levies provided for in chapter ninety-two of the acts of the
5 regular session of 1915 will not raise sufficient money to complete
6 such court house, or make permanent repairs to any court house
7 now in use, may, in addition to the levies provided for in the
4 [H. B. No. 274
8 chapter aforesaid, lay a special building levy annually, not to
9 exceed thirty cents on the one hundred dollars valuation on the
10 taxable property in said county, for such number of years as may
11 be necessary, for the sole purpose of raising funds to complete such
12 new court house, or to make permanent repairs to any court house
13 now in use.

House Bill No. 400

(By MR. HERSMAN, of Roane)

[Introduced January 25, 1921; referred to the Committee on Immigration and Agriculture.]

House Bill No. 400

A BILL establishing a supplementary experiment station providing for its purchase, erection and maintenance.

Be it enacted by the Legislature of West Virginia:

Section 1. That there shall be established a supplementary experiment station, which supplementary experiment station shall have all the powers and duties that are vested in the station now located in the city of Morgantown in the county of Boone.

Sec. 2. Said supplementary experiment station shall be located somewhere in the western, south western or central part of the state where there can be procured by purchase, gift or otherwise, lands that are tillable with sufficient grazing lands so that experimental work in all the branches of agriculture may be fully and clearly demonstrated.

Sec. 3. The commissioner of agriculture together with the board of regents shall have control of such supplementary experiment station and shall be subjected to and governed by the law as set forth in chapter fifteen-m, sections nineteen, and twenty-three inclusive of Barnes' code of West Virginia.

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Sec. 4. All moneys accruing to the state from any and all sources together with any appropriations that may be made by the state from time to time aside from the actual and necessary expenses for the station now located at Morgantown shall be applied to the purchasing of land, erecting buildings and the purchasing of such implements and paraphernalia as the board of regents may direct for the purpose and use of the supplementary experiment station.

Sec. 5. The commissioner of agriculture together with the board of regents shall, as soon as sufficient moneys have been appropriated, received as gift or otherwise, proceed to locate and

4 purchase such lands as they may deem wise in the locality herein
5 set forth.

6 All acts or parts of acts inconsistent herewith are hereby re-
7 pealed.

House Bill No. 508

(By MR. TAYLOR)

[Introduced January 26, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 508

A BILL to amend and re-enact section eighteen, chapter one hundred
and forty-nine of Barnes' code of West Virginia one thousand
nine hundred and sixteen, so as to confer upon justices of the
peace concurrent jurisdiction to hear, try, and pronounce judg-
ment in the cases therein mentioned.

Be it enacted by the Legislature of West Virginia:

That section eighteen of chapter one hundred and forty-nine of
Barnes' code of one thousand nine hundred and sixteen be amended
and re-enacted to read as follows:

Section 18. If a person wilfully interrupt, molest or disturb
2 any assembly of people met for the worship of God, he shall be con-
3 fined in jail not more than six months and fined not less than
4 twenty-five dollars or more than one hundred dollars. A juris-
5 diction to try and determine such offenses shall be in either the
6 circuit court, criminal court or other like court in the county
7 wherein the offense was committed, or by a justice of the peace
8 thereof. If tried by the circuit court or criminal court as afore-
9 said, an indictment under this section shall be sufficient if in
10 form or effect as follows.

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11 State of West Virginia.....
12 county to-wit: The grand jurors of the state of West Virginia,
13 in and for the body of the county of....., on our
14 oaths present that A..... B..... county of
15 19...., in the county aforesaid did wilfully interrupt, molest and

16 disturb an assembly of the people then and there made for the
17 worship of God, against the peace and dignity of the state."

18 In addition to all other penalties said court or said justice may
19 put him under restraint during religious worship and bind him for
20 not more than one year to be of good behavior.

ENGROSSED

House Bill No. 501

(BY MR. MURPHY.)

A BILL to change the county line between the counties of Clay and
Braxton, and annexing part of the territory of Clay county to
Braxton county.]

Be it enacted by the Legislature of West Virginia:

Section 1. That the county line between the counties of Clay
2 and Braxton be changed in the following particulars, so as to in-
3 clude within the boundary of the county of Braxton a narrow strip
4 of the said (?) Such election may be held either at a general elec-
5 immediately below the mouth of Duck creek and now included in
6 the boundary of the county of Clay. Said strip of land is more
7 particularly bounded as follows, to-wit:

8 counties. The ballots used at said election shall be in the form
9 ties of Clay and Braxton, thence south 16 west 62 poles to a stake;
10 south 9 west 32 poles to a stake; north 78 East 5.36 poles to a water
11 birch at the edge of the north bank of said Elk river, thence up said
12 river with its meanders and binding thereon to the mouth of Duck

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13 creek in the original line between said counties, thence with said
14 original line south 73 west 24 poles to the beginning.

Sec. 2. The provisions of this act shall become effective when
2 and only when the question of annexation shall have been sub-
3 mitted to a vote of the people of the said county of Braxton and
4 of the said? Such election may be held either at a general elec-
6 tion or at a special election held on the same day in each coun-
7 ty called for the purpose by the respective county courts of said
8 counties. The ballots used at said election shall be in the form
9 as prescribed for ballots used at a general election so far as

10 applicable and shall have plainly printed thereon the words "Upon
11 the question of annexing a portion of the territory of the county
12 of Clay to the county of Braxton," "For annexation," "Against
13 annexation." Said election shall be conducted and the election
14 thereof ascertained and declared in all respects as provided in
15 respect to general elections. In case of a special election, at
16 least thirty days notice thereof shall be given prior to the day of
17 said election by proclamation published in the respective counties
18 in some one or more newspapers therein published, prescribing
19 the purpose and as well the date and places of holding such elec-
20 tion; in case said proposition be submitted at a general election,
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21 the county court of each county, shall by proclamation so pub-
22 lished for thirty days prior thereto, give notice of the same.

House Bill No. 105

(BY MR. WILLIS.)

[Introduced January 19, 1921; referred to the Committee on
Taxation and Finance.]

House Bill No. 105

A BILL to amend and re-enact section two of chapter thirty-three of
the code, relating to taxes on inheritance, devises, distributive
shares and legacies.

Be it enacted by the Legislature of West Virginia:

That section two of chapter thirty-three of the code be, and the
same is hereby amended and re-enacted so as to read as follows:

Section 2. When the property or any beneficial interest therein
2 passes by any such transfer where the amount of the property
3 shall exceed in value the exemption hereinafter specified, and shall
4 not to exceed in value twenty-five thousand dollars, the tax hereby
5 imposed shall be:

6 (a) Where the person or persons entitled to any beneficial
7 interest in such property shall be the wife, husband, child, lineal
8 descendant or lineal ancestor of the decedent, at the rate of one
9 per centum of the market value of such interest in such property.

(b) Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister of the decedent (and term brother or sister shall not include a brother or sister

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of the half blood), at the rate of three per centum of the market value of such interest in such property.

(c) Where the person or persons entitled to any beneficial interest in such property shall be further removed in relationship from the decedent than wife, husband, child, lineal descendant, lineal ancestor, brother or sister, at the rate of five per centum of the market value of such interest in such property.

Sec. 2-a. The foregoing rates in section two are for convenience termed the primary rate. When the amount of the market value of such property or interest exceeds twenty-five thousand dollars the rate of tax upon such excess shall be as follows:

(a) Upon all in excess of twenty-five thousand dollars up to fifty thousand dollars, one and one-half times the primary rates.

(b) Upon all in excess of fifty thousand dollars and up to one hundred thousand dollars, two times the primary rates.

(c) Upon all in excess of one hundred thousand dollars and up to five hundred thousand dollars, three times the primary rates.

(d) Upon all in excess of five hundred thousand dollars up to one million dollars, four times the primary rates.

(e) Upon all in excess of one million dollars, five times the primary rates.

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Sec. 2-b. The following exemptions from the tax are hereby allowed:

(a) All property transferred to a person or corporation in trust or use solely for education, literary, scientific, religious or charitable purposes, or to the state or any county or municipal corporation thereof for public purposes, *provided* the property so transferred is used for the purposes herein mentioned in this state, shall be exempt.

(b) Property of the market value of fifteen thousand dollars transferred to the widow of the decedent, and, ten thousand dollars transferred to each of the other persons described in sub-division (a) of section two shall be exempt.

House Bill No. 177

(By MR. WYSONG.)

[Introduced January 19, 1921; referred to the Committee on Education.]

House Bill No. 177

A BILL to amend and re-enact section one hundred and four of chapter two of the acts of the legislature of one thousand nine hundred and nineteen, regular session, relating to teachers' elementary certificates.

Be it enacted by the Legislature of West Virginia:

That section one hundred and four of chapter two of the acts of the legislature of one thousand nine hundred and nineteen, regular session be and the same is hereby amended and re-enacted so as to read as follows:

Elementary Certificates.

Sec. 104. Subject to all the conditions set forth in this section, 2 first grade elementary certificates valid for a period of five years 3 shall be issued to all applicants who are otherwise qualified and 4 who attain a general average of ninety per cent, with no subject 5 below seventy-five per cent; second grade elementary certificates 6 valid for a period of three years, shall be issued to applicants who 7 are otherwise qualified and who attain a general average of eighty 8 per cent, with no subject below sixty-eight per cent; and third 9 grade elementary certificates valid for one year shall be issued to

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10 applicants who are otherwise qualified and who attain a general 11 average of seventy per cent, with no subject below sixty per cent; 12 provided, that the third grade certificate shall not be issued more 13 than twice to the same person.

14 The subjects in which the applicants for said certificates shall 15 be examined, or otherwise qualified according to law, shall be 16 reading, spelling, writing, English grammar and language, arithmetic, physiology and hygiene, United States and West Virginia 17 history, general and West Virginia geography, civil government, 18 theory and art of teaching, elementary agriculture, and such other 19 subjects as the state board of education shall from time to time 20 prescribe. 21

22 It is *provided, however*, that on and after the first day of July
23 one thousand nine hundred and twenty-two, applicants for the first
24 grade elementary certificate shall, in addition to the foregoing,
25 be required to satisfy the following conditions as to academic and
26 professional attainments, that is to say:

27 (1) After the first day of July, one thousand nine hundred
28 and twenty-two, applicants for first grade certificates shall have
29 had at least one year of high school work and nine weeks study of
30 professional subjects.

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31 (2) After the first day of July, one thousand nine hundred
32 and twenty-four, applicants for first grade certificates shall have
33 had at least two years of high school work and eighteen weeks
34 study of professional subjects.

35 (3) After the first day of July, one thousand nine hundred
36 and twenty-six, applicants for first grade certificates shall have had
37 at least three years high school work and twenty-seven weeks
38 study of professional subjects.

39 The state superintendent of free schools shall, at the time for
40 holding regular examinations, hold examinations on the subjects
41 included in the normal training high school course of study and
42 shall keep a record of the grades obtained in such examinations in
43 his office. Such grades shall be accepted in lieu of grades ob-
44 tained by school attendance in satisfaction of the requirements of
45 this section.

46 The state board of education may prescribe other equivalents
47 and substitutions which shall be accepted in satisfaction of the
48 foregoing requirements for high school and professional work.

49 The state superintendent of schools shall have authority to is-
50 sue normal school certificates valid for five years to graduates in
51 the diploma course of any state normal school, or other school

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52 approved for the offering of this course, to graduates in the
53 diploma course of the Bluefield colored institute and of the West
54 Virginia collegiate institute and to persons who have completed a
55 normal course of study in any school of another state, which in
56 the judgment of the state board of education, is equivalent in all
57 respects to the diploma course of study in the state normal schools
58 of this state.

59 Until the first day of July, one thousand nine hundred and
60 twenty-two, first grade elementary certificates shall be valid in all

61 the schools of the state, and thereafter they shall be valid in ele-
 62 mentary schools and junior high schools. Second grade and third
 63 grade elementary certificates shall be valid in all the grades of the
 64 elementary schools, *provided*, that no person shall be employed as
 65 principal of any school of two or more rooms in the same build-
 66 ing who does not hold a first grade certificate or its equivalent.

House Bill No. 262

(By MR. DOWNS)

[Introduced January 21, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 262

A BILL to empower the judge of the circuit court of the twenty-
 third judicial circuit to employ a competent stenographer, de-
 fining his duties, the uses to which the records made by him may
 be put, and providing for the manner of his payment.

Be it enacted by the Legislature of West Virginia:

Section 1. The circuit court of the twenty-third judicial cir-
 cuit, or the judge thereof in vacation, is hereby empowered and
 authorized to employ and appoint a competent stenographer to
 take and report the proceedings had and the testimony given
 in any case, either civil or criminal, or in any other proceed-
 ings had in said court, including the taking of testimony before
 the grand jury of said court for the use of prosecuting attorney
 of said court and in proceedings before the judge of said court
 in vacation, and otherwise to aid said judge in the performance
 of all his official duties. Said stenographer shall be authorized
 to attend the sessions of said grand jury but shall retire from
 said sessions when directed by the foreman or a majority of
 the grand jury or ordered to do so by the court, and when the
 grand jury desire to consult or vote upon any matters before

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them. Said appointment and employment of such stenographer
 may be made by the judge of said court by an order entered of
 record in said court, and the stenographer so appointed shall be

18 designated as "the official reporter of the twenty-third judicial
19 circuit." He shall be duly qualified under oath.

Sec. 2. It shall be the duty of such reporter to take full
2 shorthand notes of the testimony and proceedings in which his
3 services may be required, and such notes shall be deemed and
4 held to be official, and the best authority in any matter in dis-
5 pute, and a copy of the same written out in longhand or in
6 typewriting, made as herein provided, shall be used by the parties
7 to the cause in any further proceedings wherein the use of the
8 same may be required. It shall be the duty of said official
9 reporter to furnish a copy of his notes written out in longhand
10 or typewritten, of the testimony and proceedings, upon the re-
11 quest of the judge, without extra charge in criminal cases, the
12 copy to be filed in the clerk's office.

Sec. 3. Said official reporter shall furnish, upon request, to
2 any party to a case, a copy of the testimony or other proceedings
3 written out in longhand or typewriting, and shall certify the
4 same as being correct to the best of his skill and ability and
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5 shall be paid therefor at the rate of twenty cents for each one
6 hundred words so transcribed. A copy of such testimony or
7 proceedings, when certified by the official reporter and by the
8 judge of said court, shall be authentic for all purposes, and may
9 be used in making up the record on appeal.

Sec. 4. Said official reporter shall receive a monthly salary of
2 one hundred dollars per month, payable fifty dollars per month by
3 the county court of Berkeley county, West Virginia, twenty-five
4 dollars per month by the county court of Morgan county, West
5 Virginia, and twenty-five dollars per month by the county court
6 of Jefferson county, West Virginia, which said expenditures
7 by said courts are hereby authorized and directed, and in addi-
8 tion thereto shall receive such further compensation and ex-
9 penses in cases other than misdemeanor as the judge of the said
10 court shall in his discretion determine and allow. Such com-
11 pensation and expenses in all felony cases shall be certified to
12 the auditor of the state and paid out of the state treasury.
13 The expense of reporting and transcribing any civil case shall
14 be paid by the party requesting the services of said stenographer
15 and shall be taxed as a part of the costs of the suit.

Sec. 5. Said official reporter is hereby authorized to take

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2 affidavits, administer oaths, take acknowledgments of deeds and
3 other writings, within the county embraced in the twenty-third
4 judicial circuit, and to take and testify depositions in the same
5 manner and with the same force and effect within said county,
6 and shall be entitled to the same fees, as a notary public within
7 the said county except when taking depositions to be used in
8 any case or matter pending in said court, he shall be allowed
9 compensation in full as herein provided in lieu of all other fees.

House Bill No. 273

(By Mr. BISER.)

[Introduced January 21, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 273

A BILL to amend and re-enact section four of chapter sixty, Barnes' code, one thousand nine hundred and sixteen, relating to division fences between adjoining land owners.

Be it enacted by the Legislature of West Virginia:

That section four of chapter sixty of Barnes' code, one thousand nine hundred and sixteen, be amended and re-enacted so as to read as follows:

Section 4. When two or more persons shall have lands adjoining, each of them shall make and maintain a just proportion of the division fence between them, except the owner or owners of either of the adjoining lands shall choose to let such land lie upon.

When a line fence is constructed under the provisions of this act, neither of said adjoining land owners shall have the right to remove said fence, or any part thereof, without the permission of the other in writing; and anyone violating this provision of the act shall be responsible in damage to the adjoining land owners injured to the amount of such damage, and in addition thereto

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12 shall be deemed guilty of a misdemeanor, and upon conviction
13 thereof fined not less than one hundred dollars.

14 All acts or parts of acts inconsistent herewith are hereby re-
15 pealed.

House Bill No. 249

(BY MR. McCLINTIC, of Kanawha.)

[Introduced January 21, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 249

A BILL to amend and re-enact section three of chapter fifty-one of
the acts of one thousand nine hundred and seventeen, relating to
the trial of the defendant upon the charge specified in said
act:

Be it enacted by the Legislature of West Virginia:

Section 3. In all cases arising under this chapter the defendant
2 shall be tried by a jury, if demanded by him; such jury to be
3 selected and empanelled as in other cases of crimes and misde-
4 meanors; and at any time before the trial, upon petition of the
5 complainant and upon notice to the defendant, the court or a judge
6 thereof in vacation, may enter such temporary order as may seem
7 just, providing for the support of the deserted wife or children,
8 or both *pendente lite*, and may punish for violation of such order
9 as for contempt.

House Bill No. 240

(BY MR. TAYLOR)

[Introduced January 20, 1921; referred to the Committee on the
Judiciary.]

A BILL amending section nine of chapter fifteen-o of the code of
West Virginia, relating to the public service commission and
adding section twenty-nine.

Be it enacted by the Legislature of West Virginia:

Section 29. Whenever there shall be filed with the commission any schedule stating a change in the rates, fares or charges, or stating a new individual or joint rate, fare or charge, or joint classification or any new individual or joint regulation or practice affecting any fare, rate or charge, it shall be the duty of the commission to immediately notify the attorney general of the request for increase so filed, and of the time and place of the commission's hearing on the application, and it shall be the duty of the attorney general to appear in person, or by one of his assistants, and represent the patrons affected and resist such request for change in the rates, fares, charges, or regulations as aforesaid.

House Bill No. 241

(By MR. TAYLOR)

[Introduced January 20, 1921; referred to the Committee on Railroads.]

House Bill No. 241

A BILL to require railroad companies to stop all passenger trains to take on and let off passengers at the county seats or the nearest accessible stations thereto.

Be it enacted by the Legislature of West Virginia:

That all railroad companies operating passenger trains within this state shall be required to stop all passenger trains to take on and let off passengers at all county seats situate on its line of railway or the nearest accessible stations thereto. Any railroad company violating the provisions of this act shall on conviction thereof be subject to a fine of not less than fifty nor more than five hundred dollars.

ENGROSSED

House Bill No. 433

(BY MR. HINER)

A BILL to amend and re-enact section twelve of chapter eighty-three of the acts of the legislature of one thousand nine hundred and fifteen relating to the salaries of county officers.

Be it enacted by the Legislature of West Virginia:

That so much of section twelve, of chapter eighty-three of the acts of the legislature of one thousand nine hundred and fifteen, relating to the salaries of county officers, as relates to the sheriff clerk of the county court, clerk of the circuit court, and prosecuting attorney of Randolph county, and the sheriff, the clerk of the county court, the clerk of the circuit court and prosecuting attorney of Greenbrier county, and the prosecuting attorney of Pendleton county, be amended and re-enacted so as to read as follows:

Randolph county, \$3,000.00, for sheriff; for clerk of the county court, \$2,700.00; for clerk of the circuit court, \$2,700.00; for prosecuting attorney, \$2,400.00.

Greenbrier county sheriff, \$3,000.00; for clerk of the county court, \$3,000.00; for clerk of the circuit court, \$2,000.00; for prosecuting attorney, \$2,400.00.

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Pendleton county, for prosecuting attorney, \$600.00.

Monroe county, \$1000.00 for prosecuting attorney, \$1,400.00; for clerk of the circuit court; \$1,700.00 for the clerk of the county court.

All acts and parts of acts inconsistent herewith are hereby repealed.

House Bill No. 171

(BY MR. MILLER.)

[Introduced January 19, 1921; referred to the Committee on Education.]

House Bill No. 171

A BILL to authorize boards of education to provide and furnish rooms or buildings for teachers' homes and to have control and management of such homes, the same to be section fifty-a of chapter two of the acts of the legislature, nineteen hundred and nineteen, regular session.

Be it enacted by the Legislature of West Virginia:

In any school district or independent district the board of education may lease, buy or erect and properly equip buildings or rent rooms to be used as a home for superintendents, principals, and teachers employed in such district. Said board of education shall have general control and management of such homes. All costs for the acquisition of any rooms or buildings for such purpose and for maintenance of the same shall be paid from the school funds of the district according to regulations provided for the erection and maintenance of other buildings used for school purposes.

House Bill No. 170

(By MR. MILLER, by request.)

[Introduced January 19, 1921; referred to the Committee on Game and Fish.]

House Bill No. 170

A BILL to prohibit the killing of certain birds.

Be it enacted by the Legislature of West Virginia:

It shall be unlawful for any person at any time to catch, kill or injure, any quail or pheasant or pursue with the intent to catch, kill, or injure any quail or pheasant. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five or more than fifty dollars for each offense, and in the discretion of the justice or court trying the case be imprisoned in the county jail for a period not exceeding thirty days for each offense.

9 And the unlawful catching, killing or injuring of each and every
10 quail or pheasant shall be deemed a separate offense. And in de-
11 fault of the payment of the fine and cost the person convicted shall
12 be confined in the county jail for a period not exceeding thirty
13 days unless such fine and cost be sooner paid; *provided, however,*
14 that the forest, game and fish warden or deputy wardens, or any
15 persons under the direction of the warden may capture by any
16 means quails or pheasants to keep them alive for propagation
17 purposes.

N. B.

COMMITTEE SUBSTITUTE FOR

House Bill No. 106

(BY THE COMMITTEE ON THE JUDICIARY)

[April 7, reported from Committee on the Judiciary and ordered printed.]

House Bill No. 106

A BILL to amend and re-enact section one hundred and seventy three of chapter two of the acts of the legislature of West Virginia of one thousand nine hundred and nineteen.

Be it enacted by the Legislature of West Virginia:

That section one hundred and seventy-three of chapter two of the acts of the legislature of West Virginia of one thousand nine hundred and nineteen, be amended and re-enacted so as to read as follows:

Section 173. *Admissions*—The following are eligible to be admitted into said home:

(1) Girls between the ages of twelve and eighteen years who may be committed by any justice of the peace or by the judge of any criminal, circuit or intermediate court of the state, on complaint and due proof made by the parent, guardian or next friend or by any juvenile probation officer or by any other reliable person, that by reason of incorrigible or vicious conduct such girl has rendered her control beyond the power of such parent or guardian or next friend, and makes it manifestly best that such

11 girl should be placed in said school.

12 (2) Girls under eighteen years of age who have been con-
13 victed before any justice of the peace in said state for any offense
14 involving sex-immorality upon the part of the girl.

15 (3) Girls under eighteen years of age who have been con-
16 victed in any court of the state upon any charge involving sex-
17 immorality upon the part of said girl, or of a misdemeanor where
18 a jail sentence is attached, or of a felony, in which case instead
19 of confining said girl in the county jail or sending her to the
20 penitentiary, the judge may in his discretion, transfer such girl
21 to said home.

22 (4) Girls under eighteen years of age whose parents,
23 guardian or next friend agrees and contracts with the state board
24 of control for their support and maintenance.

25 (5) Girls between the ages of twelve and eighteen years who
26 may be committed by any justice of the peace of the state or by
27 any judge of criminal, circuit or intermediate court of the state,
28 upon complaint and due proof by the parent, guardian or next
29 friend of said girls, or by any probation officer, or by any
30 other reliable person being a resident of the state, that by
31 reason of the girl's habits or associates she is being lead
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32 into a life of vagrancy and liable to become a common vagrant;
33 and vagrancy as herein contemplated shall be construed to in-
34 clude, among other things, the following: loitering for purposes
35 of prostitution; street-walking or loitering on public roads or
36 streets at night without good excuse; living, working or residing
37 in, or loitering or loafing in or about any house of ill fame or
38 bawdy house or house of like character or kind; automobile joy
39 riding at unseemingly hours in the night time when unaccom-
40 panied by parents or other proper persons, frequenting or loiter-
41 ing or loafing in any and around any public dance hall or public
42 show; and associating with prostitutes or other persons of low
43 morals, either male or female.

44 Any unmarried girl between the ages of ten and eighteen years
45 who shall be found to be suffering with gonorrhea or chancroid in
46 an infectious stage shall be presumed to be a delinquent girl as
47 contemplated hereunder, which presumption may be overcome
48 by proof, and may be dealt with as provided herein.

49 All girls committed to the industrial school under any of the
50 provisions of this section by any judge or justice, where the ele-
51 ment of sex-immorality enters into the charge or complaint or
52 where the evidence produced raises the presumption of sex- immor-

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53 ality upon the part of the girl, shall before being sent to said school
54 be examined by one or more competent physicians or clinicians,
55 to ascertain whether such girl is in fact infected with a venereal
56 disease in any stage where medical treatment might benefit or cure
57 it; and if, upon such examination being made, it shall appear
58 that said girl is suffering with a venereal disease in any such
59 stage, said judge or justice committing said girl shall make an
60 order committing said girl to said industrial school, and shall
61 made an additional order directing said girl to be first trans-
62 ferred to the Fairmont Hospital No. 3, for treatment and deten-
63 tion pending said treatment until cured of said venereal disease
65 or rendered completely non-infectuous therefrom, after which
66 times said girl shall be transferred to the industrial home at Salem,
67 there to be kept as provided by law. And it shall be the duty of
68 the superintendent of said hospital at Fairmont to receive into
69 said hospital all girls as may be committed thereto, as provided
70 herein, and to care for, detain and treat the same until cured or
71 rendered completely non-infectious, and as soon thereafter as con-
72 venient to transfer said girls to said industrial school at Salem.
73 The board of control of the state of West Virginia is hereby
74 authorized and directed to provide suitable buildings, wards and
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75 equipment at said hospital as may be necessary to carry out the
76 provisions of this section, including the expense of transferring the
77 girls to Salem.

78 It is provided, however, that any girl who is committed under
79 the provisions of this act and found to be pregnant shall first be
80 sent to the Florence Crittenden home at Elm Grove and later
81 transferred to Fairmont or Salem, as her condition may appear to
82 demand.

83 It shall be the duty of justices or judges of court upon com-
84 mitting a girl who is infected with a venereal disease to the Fair-
85 mont Hospital No. 3 or to the industrial school, as provided
86 herein, to notify the director of the bureau of venereal diseases of
87 West Virginia of the fact, giving name, age and address of the

88 girl and the diseases from which she is suffering; and it shall be
89 the duty of the superintendent of the hospital receiving such girl
90 as provided herein, to notify said director when any girl is re-
91 ceived and when she is transferred to the industrial school, as pro-
92 vided herein.

93 Every girl committed to said industrial home, as provided
94 herein, shall remain there until she is twenty one years of age,
95 unless sooner discharged by the board of control as provided by
96 law.

House Bill No. 183

(BY MR. DEULEY.)

[Introduced January 19, 1921; referred to the Committee on Tax-
ation and Finance.]

House Bill No. 183

A BILL to amend and re-enact section one hundred and eight of
chapter twenty-nine of Barnes' code of one thousand nine hun-
dred and eighteen relating to the assessment of property for tax-
ation purposes.

Be it enacted by the Legislature of West Virginia:

That section one hundred and eight of chapter twenty-nine of
Barnes' code be amended and re-enacted so as to read as follows:

Section 108. From the information obtained as aforesaid the
2 assessor shall proceed to make up his personal property book as
3 follows: He shall enter therein the names and addresses of the
4 owners of personal property and of other persons liable to capita-
5 tion tax, alphabetically arranged by districts, and opposite the
6 name of each person, in separate columns, the persons and sub-
7 jects of taxation with which he is chargeable, that is to say: (a)
8 the number of white male residents over the age of twenty-one, not
9 exempt from taxation on account of bodily infirmity; (b) the
10 number of colored male residents over the age of twenty-one, not
11 exempt from taxation on account of bodily infirmity; (c) the

12 number of horses, mules, asses, and jennets, and the value thereof;

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13 (*d*) the number of cattle and the value thereof; (*e*) the number
14 of sheep and the value thereof; (*f*) the number of hogs and the
15 value thereof; (*g*) the value of farming and gardening utensils and
16 implements; (*h*) the value of agricultural products and products
17 of animals; (*i*) the value of mined or manufactured products; (*j*)
18 the number of automobiles and bicycles, and the value thereof; (*k*)
19 the number of carriages, carryalls, gigs, buggies, coaches, hacks,
20 wagons, carts, drays, and other vehicles not included as farming
21 utensils, and the value thereof; (*l*) the number of watches and
22 clocks, and the value thereof; (*m*) the number of pianofortes, or-
23 gans, melodeons, and other musical instruments, and the value
24 thereof; (*n*) the value of all gold and silver plate and jewelry; (*o*)
25 the value of household and kitchen furniture, not otherwise enum-
26 erated. But articles assessed as property used in connection with
27 any trade or business, or as tangible personal property of any in-
28 corporated company, shall not be enumerated under items *g*, *h*, *i*,
29 *j*, *k*, *l*, *m*, *n*, or *o*; (*p*) the value of all tangible personal property
30 of any incorporated company, and of the tangible personal prop-
31 erty used in connection with any trade or business; (*pp*) the value
32 of all chattels real of every person, firm or incorporated company;
33 (*q*) the value of all tangible property not otherwise assessed; (*r*)
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34 the money of every person, firm and incorporated company; (*s*)
35 the value of credits and investments not otherwise assessed; (*t*)
36 the amount of money, bonds and evidences of debt under control
37 of a receiver or commissioner, or deposited or invested by order of
38 court to the credit of any suit; (*u*) all money, credits and invest-
39 ments not otherwise assessed or exempt from taxation; (*v*) in case
40 the shares of any bank, trust company or banking association
41 are assessed, the names of the owners thereof, and the value thereof,
42 which names shall be arranged alphabetically under the names of
43 each bank, in a separate list following the other entries in said
44 book, for the magisterial district in which shares are assessed; (*w*)
45 the total amount of all personal property included in the fore-
46 going terms; (*x*) the aggregate of the indebtedness allowed to be
47 deducted under section sixty-seven of this chapter; (*y*) the net
48 sum shown, after deducting such indebtedness from the total
49 amount of money, credits and investments; (*z*) the whole amount

50 of the taxes due from each corporation, firm and individual and not
 51 assessed on the land books, which taxes shall be assessed on the
 52 net sum shown as aforesaid.

House Bill No. 167

(By Mr. Lusk)

[Introduced January 19, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 167

A BILL relating to the destruction or injury necessarily done to real
 property by means of explosives or otherwise, where the same
 is done to avert the spread of fire, to provide compensation to
 the owner of such building under the policy of insurance thereon,
 if any, to provide an additional stipulation for all fire insurance
 policies written in this state after the first day of
 one thousand nine hundred and twenty-one, for the purpose of
 procuring to the owners of such real estate, so necessarily destroyed
 or injured, such compensation.

Be it enacted by the Legislature of West Virginia:

That every fire insurance company or association doing
 2 ing business in this state, shall include in, or attach to, every
 3 policy or contract of fire insurance, issued by such company or
 4 association after the first day of, one thousand nine
 5 hundred and twenty-one, as a part of such policy or contract, a
 6 stipulation or condition providing thereby for the payment by such
 7 company or association of any loss, damage, injury or destruction
 8 to any property insured by such company or association, where
 9 such loss, damage, injury or destruction has been necessary in

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10 order to avert and avoid the spreading of fire by means of such
 11 property, and for that purpose it shall be the duty of every such
 12 fire insurance company or association to insert in or attach to
 13 every policy issued by such company or association, after the date
 14 aforesaid, the following stipulation:

15 In the event that fire, having originated in or been communi-

16 cated to any building or structure adjacent to the property de-
17 scribed in this policy, and such fire is likely to be communi-
18 cated through and by means of the property described in this
19 policy to other buildings, and if in order to prevent the spreading
20 of such fire to such other buildings, it becomes and is necessary
21 to destroy in whole or in part, by means of explosives or other-
22 wise, the property described in this policy, then the owner of such
23 property being the holder of this policy, shall recover under this
24 policy three-fourths of the amount named therein, if such de-
25 struction be entire, and if such destruction or damage is par-
26 tial, then the holder of said policy shall recover three-fourths
27 of the aggregate or appraised amount of such partial destruc-
28 tion or damage, or the company may, at its election, restore or
29 rebuild the structure described in said policy of insurance, to
30 the extent of such destruction or damage, and put the same in
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31 as good condition as before such destruction or damage was in-
32 flicted. *Provided*, that no payment of money by the company
33 under this clause shall exceed three-fourths of the principal sum
34 for which said property is insured. And, *provided, further*, that
35 in any action, suit or proceeding where any question properly
36 arises affecting the matters in this clause contained, or the rights
37 of the insured or insurer, hereunder, this clause shall control,
38 whether the same be written in the contract of insurance or at-
39 tached thereto or not.

40 Any such fire insurance company or association failing to in-
41 clude in or attach to the fire insurance policy written and issued
42 by such company or association after the date hereinabove men-
43 tioned. The auditor of the state may at his election revoke the
44 license or authority of such insurance company or association,
45 and in addition thereto, upon conviction thereof, such company
46 or association shall be deemed guilty of a misdemeanor and fined
47 not less than fifty dollars, nor more than five hundred dollars.

House Bill No. 159

(BY MR. NICELY.)

[Introduced January 19, 1921; referred to the Committee on the
Judiciary.]

A BILL providing for the submission of an amendment to the constitution of the state of West Virginia, section twenty-three of article eight.

(1) Provisions enabling the submission of proposed amendment to section two of article fourteen of the constitution of West Virginia at the next general election in the year one thousand nine hundred and twenty-two; proposed amendment set forth.

(2) For convenience proposed amendment designated.

(3) Directions to board of ballot commissioners in each county for preparation of ballot; form of ballot; number to be printed; directions as to commissioners of election, and right of voters as to any other ballot; election, how superintended, conducted and returned.

(4) On the twenty-fifth day after election, or as soon thereafter as practicable, certificates to be laid before the governor; duty of governor upon ascertainment of result; if ratified by a majority to become a part of constitution of the state.

Be it enacted by the Legislature of West Virginia:

That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the

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provision of section two of article fourteen of said constitution, shall be submitted to the voters of the state at the next general election, to be held in the year one thousand nine hundred and twenty-two, which proposed amendment is as follows:

Section twenty-three of article eight to be amended, so as to read as follows:

Section 23. (1) The commissioners shall be elected by the
2 voters of the county, and hold their office for the term of six years,
3 except at the first meeting of said commissioners they shall desig-
4 nate by lot, or otherwise, in such manner as they may determine,
5 one of their number who shall hold his office for a term of two
6 years, one for four years and one for six years, so that one shall
7 be elected every two years. But no two of said commissioners shall
8 be elected from the same magisterial district. But if two or more
9 persons residing in the same district shall receive the greater
10 number of votes cast at any election, then only the one of such
11 persons receiving the highest number of votes shall be declared
12 elected, and the person living in another district who shall re-
13 ceive the next highest number of votes shall be declared elected.
14 Said commissioners shall annually elect one of their number as
15 president, and each shall receive six dollars per day for his ser-

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16 vices in court, to be paid out of the county treasury; provided,
17 however, that said payment of six dollars per day shall not ex-
18 ceed the sum of eight hundred dollars per year for each commis-
19 sioner; and provided, further, that such compensation may be
20 increased in any county by the assent of a majority of the votes
21 cast on the question at any general or special election.

22 (2) For convenience in referring to the said proposed amend-
23 ment, and in the preparation of the form of the ballot hereinafter
24 provided for, said proposed amendment is hereby designated as
25 follows To be known as "county court amendment."

26 (3) For the purpose of enabling the voters of the state to
27 vote on the question of said proposed amendment to the consti-
28 tution at the said general elction to be held in the year one thous-
29 and nine hundred and twenty-two the board of ballot commis-
30 sioners of each county are hereby directed to provide and have
31 printed a separate ballot of convenient size, distinctly printed and
32 in form substantially as follows:

33 **BALLOT ON CONSTITUTIONAL AMENDMENT.**

34 *County Court Amendment.*

35 *Amending section twenty-three of article eight.*

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36 () For ratification.

37 () For rejection.

38 The same number of said separate ballots shall be printed, and
39 shall be supplied to the several voting places in each county, and
40 to be paid for in the same manner as is provided for the regular
41 ballots to be used as said general election.

42 The commissioners of election at the several voting places in
43 each county, shall furnish to each voter one of said separate bal-
44 lots to be used by him for voting on the question of said pro-
45 posed amendment; but any voter shall also have the right to vote
46 on the question of said proposed amendment by any other ballot
47 printed or written, which he may see fit to use, and which suffi-
48 ciently discloses his intention, and no ballot cast at said election
49 on the question of the proposed amendment shall be rejected if it
50 sufficiently appears therefrom what the voter intended; and every
51 voter shall have the right to vote on said proposed amendment as
52 he shall see fit.

53 The said election on the said proposed amendment at each
54 place of vtoing shall be superintended, conducted and returned,

55 and the result thereof ascertained by the same officers and in the
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56 same manner as the election of any person to any office, and all
57 provisions of the law relating to general elections shall apply.

Sec. 4. On the twenty-fifth day after the election is held, or
2 as soon thereafter as practicable, the said certificates shall be
3 laid before the governor, whose duty it shall be to ascertain there-
4 from the result of said election in the state, and declare the same
5 by proclamation published in some one or more newspaper printed
6 at the seat of government. If a majority of the votes cast at
7 the said election upon said question be for ratification of said
8 amendment, the proposed amendment so ratified shall be of force
9 and effect from the time of such ratification, and be part of the
10 constitution of the state.

House Bill No. 441

(BY MR. STROTHER.)

[Introduced January 25, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 441

A BILL to amend and re-enact section three of chapter fifty-one of
Barnes' code of West Virginia of one thousand nine hundred
and eighteen so as to authorize notaries to administer oaths and
take affidavits and depositions in any county of the state.

Be it enacted by the Legislature of West Virginia:

Section 1. That section three of chapter fifty-one of Barnes'
2 code of West Virginia of one thousand nine hundred and eighteen
3 be amended and re-enacted to read as follows:

Powers.

Sec. 3. When any oath may lawfully be administered, or affida-
2 vit or deposition taken, within any county, it may be done by a
3 notary of any county of this state, unless otherwise expressly pro-
4 vided by law.

House Bill No. 212

(By MR. HENSON)

[Introduced January 20, 1921; referred to the Committee on Taxation and Finance.]

House Bill No. 212

A BILL authorizing county courts to employ counsel, and providing for the payment thereof from the county treasury.

Be it enacted by the Legislature of West Virginia:

That the county courts of the several counties of West Virginia are hereby empowered and authorized to employ a practicing attorney to advise the county court of the county upon all matters connected with the business and duties of the court; which attorney, who shall be employed for a term of four years, shall attend the sessions of the county court, and advise said court, when required, and shall represent said court, assisting the prosecuting attorney of the county in all matters in which said county court may be interested as a party plaintiff, or defendant, for which services the county court shall pay said attorney not less than six hundred dollars, nor more than nine hundred dollars per year, payable monthly, from the county treasury.

Said counsel so employed by said county court may be removed by the court appointing him for any cause for which the prosecuting attorney might be removed from office. *Provided, however,* the provisions of this act shall not apply in those counties

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where provision is already made by law for the payment of assistant prosecuting attorneys from the county treasury.

All acts and parts of acts inconsistent herewith are hereby repealed.

ENGROSSED

House Bill No. 208

(By MR. WARD)

A BILL to empower the judge of the circuit court of the twenty-first judicial circuit to employ a competent stenographer, de-

fining his duties, the uses to which the records made by him may be put, and providing for the manner of his payment.

Be it enacted by the Legislature of West Virginia:

Section 1. The circuit court of the twenty-first judicial, or the judge thereof in vacation, is hereby empowered and authorized to employ and appoint a competent stenographer to take and report the proceedings had and the testimony given in any case, either civil or criminal, or in any other proceedings had in said court, including the taking of testimony before the grand juries of said court for the use of the prosecuting attorney of the said court, and in proceeding the judge of said court, in vacation, or in chambers, and otherwise to aid said judge in the performance of all his official duties. Said stenographer shall be authorized to attend the sessions of said grand jury, but shall retire from said sessions when directed by the court, and

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when the grand jury desire to consult on or vote upon any matters before them. Said appointment and employment of such stenographer may be made by the judge of said court by an order entered of record in said court, and the said stenographer so appointed shall hold his office during the pleasure of the court and shall be designated as the "official reporter of the twenty-first judicial circuit." He shall be duly qualified under oath.

Sec. 2. It shall be the duty of said stenographer and reporter to take full shorthand notes of the testimony and proceedings in which cases and matter his services may be required, and such notes shall be deemed and held to be official, and the best authority in any matter in dispute, and a copy of the same written out in longhand or typewriting; made as herein provided, shall be used by the parties in any further proceedings wherein the use of the same may be required. It shall be the duty of said official reporter and stenographer to furnish a copy of his notes written out in long hand or typewritten, of the testimony and proceedings upon the request of the judge, without extra charge in all criminal cases, a copy of which shall be filed in the office of the court in which the case was tried, and also a copy to the H. B. No. 208]

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defendant in any criminal case, free of charge, if requested by

15 the defendant and upon his making oath that he is financially
16 unable to pay for said copy.

Sec. 3. Said official reporter shall furnish, upon request, to
2 any party to a case, a copy of the testimony or rather proceed-
3 ings written out in long hand or typewriting, and shall certify
4 the same as being correct to the best of his skill and ability,
5 and shall be paid therefor at the rate of fifteen cents for each
6 one hundred words so transcribed. A copy of such testimony or
7 proceedings as mentioned in this and the preceding sections, when
8 certified by the official reporter and by the judge of said court,
9 shall be authentic for all purposes, and may be used in making
10 up the record on appeal.

Sec. 4. The compensation of such stenographer shall be fixed
2 by said judge at such sum as he shall deem proper, not to exceed
3 one hundred and twenty-five dollars per month, and shall be
4 paid out of the state treasury each month upon a certificate of
5 the judge of said circuit that such stenographer and reporter
6 is entitled to receive the same.

Sec. 5. So far as any act or part of any act of the legislature
2 of West Virginia is inconsistent with this act, or any of its
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3 provisions, they shall not apply to the judge of the circuit court
4 of the twenty-first judicial circuit, nor to said official reporter.

Sec. 8. This act shall be in full force and effect from its
2 passage.

House Bill No. 81

(BY MR. MURPHY.)

[Introduced January 17, 1921; referred to the Committee on
Education.]

House Bill No. 81

A BILL to amend and re-enact section fifty-five of chapter two of
the acts of the legislature of one thousand nine hundred and nine-
teen, regular session, relating to teachers' salaries.

Be it enacted by the Legislature of West Virginia:

That section fifty-five of chapter two of the acts of the legislature of nineteen hundred and nineteen, regular session, relating to teachers' salaries be amended and re-enacted to read as follows:

Salaries for Teachers—Board Shall Fix Same.

Section 55. Boards of education shall have authority to fix special schedules of salaries to be paid to superintendents, principals, supervisors, and all other employees who are not employed as teachers; and, to fix the salaries of teachers.

Commencing with the school year of one thousand nine hundred and twenty-one and twenty-two boards of education shall fix the rates of salary to be paid teachers in accordance with the following classifications and requirements:

(a) Basic salaries shall be the salaries fixed for teachers who are teaching their first regular term of school. Such salaries shall be fixed according to the following schedule:

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(1) For teachers holding certificates of the rank of third grade not less than forty-five dollars a month.

(2) For teachers holding certificates of the rank of second grade not less than sixty dollars a month.

(3) For teachers holding certificates of the rank of first grade, secured by examination or on credentials not equivalent to a diploma from a standard normal school, not less than seventy-five dollars a month.

(4) For teachers who have completed the diploma course of study in a standard normal school, or who have had, in the opinion of the state board of education, equivalent training, ten dollars a month more than the rate fixed above for teachers holding certificates of the rank of first grade.

(5) For teachers who have completed a collegiate course of study in an approved institution of collegiate rank, or who have had, in the opinion of the state board of education equivalent training, twenty-five dollars a month more than the rate fixed above for teachers holding certificates of the rank of first grade.

(b) Advanced salaries shall be the salaries fixed for teachers who have taught more than one regular term of school. Such salaries shall be fixed according to the following schedule:

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(1) For teachers who have taught one regular term of school

34 and not more than four regular terms, the rate of salary shall be
35 the basic salary plus two dollars a month for the second term; the
36 basic salary plus three dollars a month for the third term, and the
37 basic salary plus four dollars a month for the fourth term.

38 (2) Teachers who have taught five regular terms of school and
39 not more than ten regular terms, the rate of salary shall be seven
40-41 dollars and fifty centy more a month than the rate of the basic
42 salary of teachers holding similar credentials.

43 (3) For teachers who have taught ten regular terms of school
44 and not more than fifteen regular terms, the rate of salary shall
45 be fifteen dollars a month more than the rate of the basic salary
46 for teachers holding similar credentials.

47 (4) For teachers who have taught fifteen regular terms of
48 school and not more than twenty regular terms, the rate of sal-
49 ary shall be twenty-two dollars and fifty cents a month more than
50 the rate of the basic salary for teachers holding similar credentials.

51 (5) For teachers who have taught twenty regular terms of
52 school and not more than twenty-five regular terms, the rate of
53 salary shall be thirty dollars a month more than the rate of the
54 basic salary for teachers holding similar credentials.

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55 (6) For teachers who have taught twenty-five or more regular
56 terms of school, the rate of salary shall be thirty-seven dollars
57 and fifty cents a month more than the rate of the basic salary for
58 teachers holding similiary credentials.

59 Boards of education may fix a higher rate of salary than the
60 rates provided herein for teachers who do six weeks' approved
61 work during the vacation period in an approved school or secure
62 coupons of credit or other marks of advancement that are, in the
63 opinion of the state board of education, equivalent to the training
64 received by such school attendance.

65 In determining the number of regular terms of school a teacher
66 has taught, boards of education shall credit as regular teaching,
67 service in the United States army or navy in the word war, and
68 active work in educational positions other than teaching, but no
69 teacher shall be given credit for teaching more than one regular
70 term in any school year.

71 Boards of education in fixing the salaries of teachers in inde-
72 pendent districts and in incorporated towns and cities and in high
73 schools shall determine the rates of salaries to be paid such teach-

74 ers without regard to the limitations and regulations set out in
75 the foregoing paragraphs of this section.

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76 All acts and parts of acts inconsistent with the provisions of
77 this act are hereby repealed.

House Bill No. 353

(By MR. HERSMAN, of Calhoun)

[Introduced January 24, 1921; referred to the Committee on the Judiciary.]

House Bill No. 353

Be it enacted by the Legislature of West Virginia:

That section eighteen of chapter twenty-nine of Barnes' code of one thousand nine hundred and eighteen, relating to the board of equalization and review, be and the same is hereby amended and re-enacted to read as follows:

Section 18. Any person claiming to be aggrieved by any entry in any land or personal property book of any county who shall not have been notified of his assessment, or who shall not have appeared and contested the same as provided in section eighteen of this chapter, and any person claiming to be aggrieved by the assessment of a license tax in any county, may, within one year from the verification of such book, or within six months after the assessment of such license tax is assessed. But he shall, before any such application is heard, give ten days' notice to the prosecuting attorney of the county, whose duty it shall be to attend to the interests of the state, county and district, in the matter. If it appear on the hearing of such application that the value, distance or bearing from the court house, or the local description of any tract of land entered in such land book is, by

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mistake or fraud, incorrectly entered therein, or that any tract or lot of land entered in such land book is, by mistake or fraud, charged with a greater or less amount of taxes and levies than should have been charged thereon, or that any person properly chargeable with the taxes on any tract or lot entered therein is

20 not so charged, or that there is a mistake in the name of the
21 person charged with taxes on any tract or lot of land therein en-
22 tered, or if it appear from the report of a competent surveyor,
23 under oath, that any tract of land entered therein is by mis-
24 take or otherwise charged with a greater number of acres than
25 it contains, or it appear that any one has been improperly charged
26 with taxes on personal property, or that his property has been
27 assessed at an improper valuation, the court shall by an order
28 entered of record, correct any and every such error or mistake,
29 and direct its clerk to furnish the assessor with a copy of such
30 land book made out by him. A copy of any such order, or
31 orders entered in any court making any such correction as is
32 herein provided for, shall be made and certified to the auditor
33 by the clerk within twenty days after the entering of the same;
34 such application shall have precedence of all other business be-
35 fore the court; but any order or judgment made upon such ap-
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36 plication shall show that the prosecuting attorney was present
37 and defended the interest of the state. In the event it shall
38 be ascertained that the land or personal property has been
39 assessed too high, or is otherwise improperly assessed, and that
40 the owner has paid the excess of such taxes, or the taxes errone-
41 ously charged, it shall be refunded to him; and if not paid, he
42 shall be released from the payment thereof. If the court, upon
43 an application to correct an assessment under any of the pro-
44 visions of this chapter, refuse to make the corrections asked for,
45 the applicant may have the evidence taken thereon certified by
46 the county court and an appeal may be taken, as in other cases,
47 from the order of refusal to the circuit court of the county, and
48 such appeal, when allowed by the court or judge, shall, except
49 as hereinafter provided have the preference over all other civil
50 cases pending in said court; and whenever any such assessment
51 is corrected by the county court, or by the circuit court on ap-
52 peal, the clerk of the court making the corrections shall certify
53 a copy of such order to the auditor, and shall also furnish to
54 the assessor a copy of the same, and said assessor shall thereupon
55 make the correction in his land book for the next year according
56 to such order.

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57 Whenever the county court or the circuit court, on appeal,

58 shall grant relief to any such applicant against the taxes, or any
 59 part of them, assessed against him on either the land or the per-
 60 sonal property books, or if a license tax, an order shall be made
 61 by such court exonerating such applicant from the payment of
 62 so much of such taxes as are erroneously charged against him,
 63 if the same have not been paid; and if paid, that the sum so
 64 erroneously charged be refunded to him.

65 If what was erroneously charged has been paid into the state
 66 treasury, the order of the county court, attested by its clerk, shall
 67 entitle the claimant to a warrant on the state treasury for the
 68 amount thereof, if application for the same be made to the au-
 69 ditor within one year after the date of said order.

House Bill No. 524

(BY MR. McCLINTIC, of Kanawha.)

[Introduced January 26, 1921; referred to the Committee on Redis-
 tricting.]

House Bill No. 524

A BILL to apportion the representation in the senate and house of
 delegates of the state of West Virginia.

Be it enacted by the Legislature of West Virginia:

Section 1. That until the senatorial districts of the state of
 2 West Virginia shall be altered by the legislature, in pursuance
 3 of the provisions of the constitution, the state shall consist of
 4 fifteen (15) senatorial districts, as follows:

5 The counties of Hancock, Brooke and Ohio shall constitute
 6 the first senatorial district.

7 The counties of Marshall, Wetzel and Tyler shall constitute the
 8 second senatorial district.

9 The counties of Pleasants, Wood, Wirt and Ritchie shall consti-
 10 tute the third senatorial district.

11 The counties of Mason, Jackson, Roane and Putnam shall con-
 12 stitute the fourth senatorial district.

13 The counties of Cabell, Lincoln and Logan shall constitute
 14 the fifth senatorial district.

15 The counties of Wayne, Mingo, McDowell and Wyoming shall
16 constitute the sixth senatorial district.

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17 The counties of Raleigh, Mercer, Summers, Monroe and Boone
18 shall constitute the seventh senatorial district.

19 The county of Kanawha shall constitute the eighth senatorial
20 district.

21 The counties of Fayette, Greenbrier, Nicholas and Clay shall
22 constitute the ninth senatorial district.

23 The counties of Calhoun, Gilmer, Braxton, Webster and Poca-
24 hontas shall constitute the tenth senatorial district.

25 The counties of Monongalia, Marion and Taylor shall consti-
26 tute the eleventh senatorial district.

27 The counties of Doddridge, Harrison and Lewis shall consti-
28 tute the twelfth senatorial district.

29 the counties of Barbour, Upshur, Randolph and Pendleton
30 shall constitute the thirteenth senatorial district.

31 The counties of Preston, Tucker, Grant, Hardy and Mineral
32 shall constitute the fourteenth senatorial district.

33 The counties of Jefferson, Berkeley, Morgan and Hampshire
34 shall constitute the fifteenth senatorial district.

35 And each of said districts shall have two (2) senators. The
36 senators elected at the last general election for the full term of
37 four years, shall continue to hold their seats for the term for
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38 which they were elected. And each of said senatorial districts
39 shall at the next general election to be held on the Tuesday next
40 after the first Monday in November, nineteen hundred and twenty-
41 two, elect one senator, and bi-ennially thereafter one senator shall
42 be elected from each of said districts.

Sec. 2. That until a new apportionment of delegates shall be
2 declared in pursuance of the constitution, the house of delegates
3 shall consist of one hundred (100) members, which shall be appor-
4 tioned as follows:

5 To the counties of Barbour, Boone, Brooke, Calhoun, Clay,
6 Doddridge, Grant, Gilmer, Hampshire, Hancock, Hardy, Jeffer-
7 son, Lewis, Lincoln, Jackson, Mineral Mingo, Monroe, Morgan,
8 Nicholas, Pendleton, Pleasants, Pocahontas, Putnam, Raleigh,
9 Randolph, Summers, Taylor, Tucker, Upshur, Webster, Wirt and
10 Wyoming, one delegate each.

- 11 To the counties of Berkeley, Braxton, Greenbrier, McDowell,
 - 12 Marshall, Mason, Mercer, Monongalia, Preston, Ritchie, Roane,
 - 13 Tyler, Wayne and Wetzel, two delegates each.
 - 14 To the counties of Fayette and Marion, four delegates each.
 - 15 To the county of Ohio, four delegates.
- 6
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- 16 To the county of Kanawha eight delegates.
 - 17 To the counties of Harrison and Cabell, five delegates each.
 - 18 To the counties of Wood, Logan and Raleigh, three delegates
 - 19 each.

ENGROSSED

House Bill No. 144

(BY MR. TERRILL)

A BILL to incorporate the city of Kenova, to extend its limits, to define the powers of said city, to define the powers and duties of its officials, to repeal chapter fifty-nine, acts of the legislature of West Virginia 1866, regular session, and all acts amendatory thereof and to repeal all acts inconsistent herewith.

KENOVA CHARTER

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of that portion of the county
 2 of Wayne and state of West Virginia, within the boundaries de-
 3 scribed in the next succeeding section of this bill, be and they are
 4 hereby made and created a municipal corporation by the name of
 5 "The City of Kenova", by which name they shall have perpetual
 6 succession, and a common seal; and by which name they can
 7 sue and be sued, implead and be impleaded; contract and be con-
 8 tracted with; purchase or otherwise acquire and hold real estate

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9 and personal property in the needful discharge of the functions
 10 of government conferred by law, and generally shall have all the
 11 the rights, franchises, capacities and powers conferred herein by
 12 the laws of this state upon municipal corporations not inconsis-
 13 ent with the provisions of this act.

Sec. 2. The corporate limits and boundaries of said city shall be as follows:

Beginning at the junction of Twelvepole creek with the Ohio river, and thence up said Twelvepole creek with the meanders thereof to a point two hundred feet below the mouth of Coal Branch, thence leaving the said Twelvepole creek and in a course north sixty-five degrees fourteen minutes west four thousand one hundred and fifty-two feet to the south west corner of Lot Number Sixty-seven, Block "L", of the Wayne Avenue addition to Kenova, West Virginia, and thence north fifty-one degrees nineteen minutes west six thousand six hundred and sixty-three feet to a locust on the bank of Big Sandy river, and thence down the said Big Sandy river, with its meanders, to the junction of same with the Ohio river, and thence leaving the said Big Sandy river and up the Ohio river with its meanders to the place of beginning.

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Sec. 3. The territory in said city shall be divided into wards as follows:

Ward No. 1.

All the territory within the said boundaries lying east of the center line of Main street, Ceredo, projected from the northern to the southern corporation boundary line.

Ward No. 2.

All the territory within the said boundaries, lying between the said center line of Main street, Ceredo, projected as aforesaid and to the center line of Eighth street, Kenova, projected from the northern to the southern corporation boundary line.

Ward No. 3.

All the territory within the said boundary lines between the center line of Eighth street Kenova, projected as aforesaid and the center line of East Thirteenth street, Kenova, projected from the northern to the southern boundary corporation line.

Ward No. 4.

All the territory within the said boundary lines, lying between the center line of East Thirteenth street, Kenova, projected as aforesaid and the center line of Nineteenth street, Kenova, projected from the northern to the southern boundary corporation line.

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23

Ward No. 5.

24 All the territory within the said boundary lines lying west of
25 the center line of Nineteenth street, Kenova, projected as aforesaid
26 and the west corporation boundary line.

Sec. 4. The municipal authorities of said city shall be a
2 mayor, recorder and five councilmen, who together shall form a
3 common council.

Sec. 5. All the corporate powers of said corporation shall be
2 exercised by the common council, or under their authority, except
3 where otherwise provided.

Sec. 6. The common council of the said city shall employ a
2 city treasurer, a chief of police, city attorney and all other agents
3 and employees needful for the exercise of the powers herein con-
4 ferred.

Sec. 7. The mayor, recorder and councilmen shall be elected
2 by the qualified voters of said city for the term of two (2) years
3 and shall hold such offices as mayor, recorder and councilmen until
4 their successors shall have been duly qualified.

Sec. 8. The mayor, recorder and councilmen of said city shall
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2 be citizens thereof and actual residents therein, sixty days, at
3 least, before day of election, and shall not be eligible to exercise the
4 duties of the office unless they shall have paid taxes on one hun-
5 dred dollars worth of real or personal property for the year pre-
6 ceding their election. *Provided*, that no two councilmen shall be
7 elected from the same ward, nor reside therein during their term of
8 office. *Provided, further*, that the mayor and recorder of said city
9 may reside in the same ward and may reside in the same ward
10 together with one councilman.

Sec. 9. The first election under this act shall be held on the
2 second Tuesday in June 1921. The nominations for the respect-
3 ive offices shall be made not less than twenty days, nor more than
4 thirty days prior to the day of election, and all officers shall
5 qualify and take their several offices to which they are elected on
6 the first day of July following. All regular elections for subse-
7 quent years shall be held biennially on the same day of the month
8 as mentioned above. The respective mayors, to-wit the mayor of
9 Ceredo and the mayor of Kenova, members of the two city coun-
10 cils, or their respective successors in office at the time this act goes
11 into effect, in the two municipalities which make up the city of

12 Kenova as herein created shall hold their respective offices until
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 13 the first day of July following the first regular election herein
 14 provided to be held.

Sec. 10. Candidates to be voted for at all general municipal
 2 elections, at which a mayor and councilmen are to be elected under
 3 the provisions of this Act, shall be nominated by convention or
 4 primary, or in any other manner provided by the laws of West Vir-
 5 ginia for municipalities. It is further provided, that the municipi-
 6 pal authorities of the town of Ceredo shall hold and conduct the
 7 first election in wards numbers one and two as hereinbefore set
 8 out, and the municipal authorities of the City of Kenova shall
 9 hold and conduct this election in wards numbers three, four and
 10 five as hereinbefore set out; all succeeding elections shall be held
 11 and conducted by the municipal authorities of the city of Kenova.

Sec. 11. All persons actual *bona fide* residents of said city for
 2 thirty days and entitled to vote for county and district officers
 3 shall be entitled to vote for mayor, recorder and councilmen.

Sec. 12. Where a vacancy shall occur from any cause in the
 2 office of mayor, recorder or in the council the vacancy shall be
 3 filled by appointment by the council.

Sec. 13. At all elections the vote shall be by ballot and when
 2 two or more persons for the same office at any election shall re-
 3 ceive an equal number of votes, the council shall decide which of
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 4 the said persons shall be returned elected and all contested elec-
 5 tions shall be heard and determined by the council for the time
 6 being.

Sec. 14. The mayor, recorder, councilmen, treasurer, chief of
 2 police, city attorney and all other officers of the said municipality
 3 shall each, before entering upon the duties of their respective
 4 offices, and within ten days after being furnished with a certificate
 5 of their election or appointment, take and subscribe to an oath
 6 to support the Constitution of the United States, and the state of
 7 West Virginia, and to faithfully discharge his or her duties as such
 8 officer to the best of their ability, so long as they continue therein.
 9 Said oath may be taken before any officer authorized to administer
 10 oaths. Certificates of said oaths shall be recorded in the journal
 11 of the proceedings of the council.

Sec. 15. If any one elected mayor, recorder or councilman shall

2 not have been eligible, or shall fail or refuse to take the oath or
 3 affirmation required under this act, within the ten days afore-
 4 said, such office shall be declared vacant, and the vacancy filled as
 5 hereinbefore prescribed, but in all cases from among the citizens
 6 of the city eligible to such office or position under this act.

Sec. 16. The council shall be presided over at its meetings by
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2 the mayor, or in his absence by one of the councilmen selected by
 3 by a majority of the council present, and a majority of the coun-
 4 cil shall be necessary to constitute a quorum to transact business.

Sec. 17. The council shall cause to be kept in a journal, an
 2 accurate record of all its proceedings, acts and orders, which shall
 3 be fully indexed and open to the inspection of the citizens of the
 4 the city.

Sec. 18. The proceedings of last meeting shall be read to the
 2 council, corrected when necessary, and signed by the person pre-
 3 siding for the time being, and the recorder. Upon the call of any
 4 member, the ayes and noes on any question shall be called and
 5 recorded in the journal. The mayor, though voting as a member
 6 of the council, in cases of a tie, shall have the casting vote.

Sec. 19. The council, so constituted, shall have power within
 2 said city to lay off, open, extend, curb and pave streets, alleys,
 3 walks and gutters for the public use; and to alter, improve and
 4 light the same and have them kept in order and free from obstruc-
 4-a tions on, over and under them; to regulate the width of the side-
 5 walks and streets, and to order the sidewalks, footways,
 6 and gutters to be curbed, paved and kept in good order
 6-a free and clean, by the owners or occupants of the

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7 adjacent property; to lay off public grounds and provide, con-
 8 tract for and take care of public buildings proper to the city;
 9 to prevent injury or annoyance to the public or individuals, from
 10 anything dangerous, offensive or unwholesome; to abate or cause
 11 to be abated, anything which, in the opinion of a majority of the
 12 whole council, shall be a nuisance; to regulate the keeping of gun-
 13 powder and other combustibles; to provide for the burial of the
 14 dead, and for this purpose may purchase and hold the necessary
 15 land for a cemetery near or convenient to said city, and provide
 15-a for its improvement and security; to provide for
 16 the regular building of houses and other structures in or for

17 said city; for the making of division fences, and to provide for
18 shade and ornamental trees, and against danger or damage from
19 fires or contagious diseases; to provide a revenue for the city and
20 appropriate the same, and to provide the annual assessment of tax-
21 able persons and property of the city; to adopt rules for the trans-
22 action of business and the government and regulation of its own
23 body; to promote the general welfare of the city, and protect the
24 property, and preserve peace and good order therein; to appoint
25 such officers as they may deem proper; to define their powers, pre-
26 scribe their duties, fix their term of service and compensation,

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27 require and take from them bonds, with such sureties and in such
28 penalties as the council may determine, conditioned for the true
29 and faithful discharge of their duties, and remove them at pleas-
30 ure, (all bonds to be made payable to the city in its corporate
31 name;) to erect, or authorize, or prohibit the erection, of gas
32 works, or water works, in or near the city; to prevent injuries to,
33 or polluiton of the same; for all of which purposes named in this
34 clause, except that of taxation, the council shall have jurisdiction
35 for one mile beyond the city; to regulate and provide for weighing
36 and measuring of hay, coal and other articles sold or for sale in
37 said city and to regulate the transportation thereon through the
38 streets, and generally do such things as the council shall deem
39 necessary for the interests, prosperity, peace and good order of the
40 citizens of said city.

41 For the purpose of carrying out the foregoing mentioned powers
42 in this section the city of Kenova is hereby given the power of emi-
43 nent domain, to be exercised by it in taking and using real estate
44 for said purposes, to be exercised in accordance with the law and
45 the constitution of this state.

Sec. 20. To carry into effect these enumerative powers, and
2 all others conferred upon said city or its council, expressly or by
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3 implication, in this or any other acts of the legislature, the coun-
4 cil shall have power to adopt and enforce all needful orders, by-laws
5 and ordinances not contrary to the constitution and laws of this
6 state, and to prescribe, impose and enforce reasonable fines and
7 penalties, including imprisonment for a term not exceeding thirty
8 days, under the judgment and order of the mayor of the said city,
9 or the person lawfully exercising his functions. The council,
10 with the consent of the county court of Wayne county, entered

11 of record, may have the right to use the jail of said county for any
12 purpose necessary in the administration of its affairs.

Sec. 21. The annual levy ordered by the common council
2 shall be made upon all real and personal property, including dogs
3 and other animals which are not exempt from taxation, situated
4 in the said city. *Provided*, the tax rate does not exceed the
5 value of one dollar on every hundred dollars valuation of real
6 and personal property. No capitation tax shall be levied nor
7 collected by said council.

Sec. 22. The council may require a city license for conduct-
2 ing any business or doing anything, when such business or act
3 is taxed by the state of West Virginia, and the council may in
4 any case require from the person so licensed a bond with sure-

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5 ties in such penalties and with such conditions as it may de-
6 termine. *Provided*, the council may grant or refuse any such
7 license.

Sec. 23. The chief of police shall, within the corporate lim-
2 its of the city, exercise all the duties that a constable can legally
3 exercise in regard to executing and levying process and shall
4 be entitled to the same compensation therefor. He shall super-
5 vise all other policemen and shall preserve the peace and good
6 order within the city limits and be subject to the order of the
7 mayor and council. Any policeman may be suspended by the
8 mayor of said city until the next regular meeting of the council,
9 at which time the mayor shall file written charges against the
10 chief of police or other policeman who has been suspended, and
11 if the mayor shall fail to file such charges the chief of police
12 or other policeman who has been suspended shall be automatically
13 restored to his office.

Sec. 24. The city treasurer, under the supervision of the coun-
2 cil shall have custody of all public moneys of the city; shall keep
3 and preserve such moneys as provided by ordinance or any law
4 applicable thereto; shall collect and receive and shall disburse,
5 upon warrants issued by the proper authority, all public moneys.
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6 He shall keep an accurate account of all moneys in his custody,
7 collected, recived and paid out by him, showing the source from
8 which the same are received and the purposes for which dis-
9 bursed. The council may prescribe by ordinance or resolution the

10 manner in which a warrant for the payment of money should be
11 issued, executed and authenticated. He shall be subject to the
12 supervision and control of the council in all things and perform
13 the duties prescribed by the council. The city treasurer shall
14 likewise collect all fines and license tax; but, it is further pro-
15 vided, that said fines and license tax may be collected by the
16 chief of police in the absence of the city treasurer, which shall
17 be paid over to the city treasurer.

Sec. 25. The city attorney shall be an attorney-at-law ad-
2 mitted to practice in the state of West Virginia. He shall be
3 the legal adviser and counsel for the council of said city. He
4 shall prosecute and defend all suits for and against the city. He
5 shall prepare all contracts, bonds and other instruments in writing
6 required by the council. He shall furnish to the council an
7 opinion on any question involving the powers and duties of said
8 city whenever required. He shall apply, in the name of the city,
9 to a court of competent jurisdiction for an order of injunction

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10 to restrain the misapplication of funds of the city or the abuse
11 of its corporate powers, or the execution or performance of
12 any contract made by the city in contravention of law, or which
13 is procured by fraud or corruption. He shall prepare an ordi-
14 nance covering any matter, whenever required by the council, and
15 he shall do and perform any and all other duties which the
16 council may by ordinance or resolution require. The council
17 may, in its discretion, employ and pay special counsel in any
18 matter.

Sec. 26. The councilmen shall attend all meetings of said
2 council and shall do and perform all things required by the
3 enter in a separate volume all ordinances of a general nature, a
4 violation of which shall subject any person to any penalty, and
5 carefully index the same. All ordinances providing for the issu-
6 ing of bonds, the creation of a debt, the construction of any
7 public improvement, or of any local or temporary nature shall
8 be entered in a separate volume by the city recorder and care-
9 fully indexed. He shall keep complete books of account showing
10 all financial transactions of the city and of each department, all
11 receipts and expenditures made by the city, the sources of all
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12 income and the purpose of all expenditures. He shall enter in

13 the municipal assessment docket all special assessments made for
14 public improvements, showing the name of the owner of the prop-
15 erty, the particular property on which the assessment is levied,
16 the date of the entry, and the minute book and page showing the
17 entry of the ordinance or resolution creating the assessment,
18 and the maturing time of the assessment. When and as the in-
19 stallments upon principal and interest on each assessment shall be
20 paid, he shall enter such payments showing the amount paid
21 upon principal, the amount of interest, under the heading and
22 in the account of such special assessment. When the special as-
23 sessment, principal and interest, shall have been paid in full, he
24 shall make an entry in red ink on the face of the account show-
25 ing that the special assessment is fully satisfied and paid. He
26 shall make out all vouchers and pay-rolls of the city, and shall
27 do and perform all other duties which may be required of him
28 by the council by any ordinance or resolution, or by the head of
29 any department, and shall be subject to the supervision and con-
30 trol of the council in all matters.

Sec. 27. The city recorder shall keep a complete record of
2 all ordinances, resolutions and acts of the city council. He shall

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3 provisions of this act or the constitution and laws of the state
4 of West Virginia.

Sec. 28. The mayor shall be the chief executive officer of the
2 city. It shall be his duty to see that the by-laws, ordinances and
3 orders of the council are executed. He shall be *ex-officio* a con-
4 servator and justice of the peace in the city, shall, within the
5 same exercise all the powers and duties vested in justices. He
6 shall control the police of the city, may appoint special police
7 officers. He shall see that peace and good order are preserved,
8 that persons and property are protected. He shall have power to
9 issue executions for all fines and costs imposed by him. May
10 require the immediate payment thereof and in default of such
11 payment shall commit the party in default to jail until the fines
12 and costs be paid, but the term of imprisonment in such cases
13 shall not exceed thirty days. He shall from time to time recom-
14 mend to the council such measures as he may deem necessary for
15 the welfare of the city, and shall receive compensation for his
16 services as hereinafter provided.

Sec. 29. The officers shall receive the following compensation

2 for their services, which shall not be diminished or increased dur-
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3 ing their term of office:

4 Annual salary of the mayor shall be three hundred dollars.

5 He may also receive costs, as provided by an order or resolution
6 of the council in all cases of investigation and trial held before
7 him.

8 Annual salary of the recorder shall be four hundred dollars.

9 Annual salary of each councilman shall be one hundred dol-
10 lars.

11 The compensation of the city treasurer shall not exceed one
12 per centum of the amount of moneys received by him for and on
13 behalf of the said city.

14 The salary of the city attorney, the salary of the chief of police,
15 policemen and all other agents and employees of the city shall
16 be fixed by the council.

Sec. 30. The mayor, recorder, treasurer, chief of police and
2 policemen shall give bonds in penalties to be fixed by the council
3 conditioned for the faithful discharge of their duties, or other-
4 wise as required by law, which bonds shall only be furnished by
5 some surety company authorized to do business in the state
6 of West Virginia. The council may require bonds conditioned
7 as aforesaid from any other agent or employee. The premiums

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8 on all such bonds shall be paid out of the city treasury. All
9 bonds given as aforesaid shall be approved by the common coun-
10 cil and shall be filed with the recorder of the said city and pre-
11 served by him.

Sec. 31. There shall be a lien upon all real estate within the
2 said city for the city taxes assessed thereon including such pen-
3 alties and interest added thereto for non-payment thereof as are
4 prescribed by law from the first day of January of the year in
5 which said taxes are assessed. Said liens may be enforced in any
6 court of record in West Virginia by appropriate suit, provided
7 such suit be entered within five years from the time said liens at-
8 tached as herein provided, and such suit may be either in the
9 name of the city of Kenova as plaintiff or said city may intervene
10 by petition in any suit pending to sell or enforce liens against real
11 estate which are subject to such liens for said taxes. Said liens
12 for such taxes and attendant penalties, as well as for improve-

13 ments, may also be enforced by certifying of same to the clerk of
14 the county court of Wayne county for certification to the state
15 auditor, and the same may be certified down by the state auditor
16 and sold for taxes, interest, penalties and commissions thereon in
17 the same manner, at the same time and by the same officer as real
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18 estate, is sold for taxes, interest, damages, costs and commissions
19 due the state, which officer shall account therefor on settlement
20 with the common council and pay the same over to the treasurer
21 of the city of Kenova.

Sec. 32. The council may cause any public street or alley or
2 part thereof to be graded, paved, curbed, sewerred, or otherwise
3 improved in a permanent manner with brick, concrete, asphalt,
4 wooden blocks, macadam, sewer pipe or other suitable material,
5 or may cause any one or more of such improvements to be made,
6 under such regulations not inconsistent with the provisions of
7 this setcion as shall be fixed by council, upon the lowest and best
8 terms obtainable by advertising for bids or proposals therefor;
9 and the entire cost thereof (which cost shall include the cost and
10 expense of the preliminary and other survey, of printing and
11 publishing of notices, ordinances and resolutions required to be
12 published in relation thereto, and the cost of construction),
13 shall be assessed against the lots or fractional parts of lots abut-
14 ting on that part of the streets and alleys so graded, paved,
15 curbed, sewerred or otherwise improved, in proportion to the num-
16 ber of feet frontage thereon; *provided*, that the cost of grading,
17 paving, sewerred or otherwise improving intersections of streets
18 and alleys, (except such part thereof as may be assessable to a

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19 street car or other railway company as hereinafter set forth), and
20 the proportion for lots or parts of lots or property against which
21 no assessment can legally be made shall be paid by the city out of
22 the general fund; and *provided, further*, in case of a street or al-
23 ley occupied by street car tracks or other railway, the cost of pav-
24 ing the space between the rails and for tw ofeet additional outside
25 each rail, shall be assessed to and paid by the street car or other
26 railway company, (unless otherwise provided in the franchise of
27 such street car or other railway company which was granted
28 prior to the passage of this act, in which case the cost of that
29 part of the pavement or other improvement which can lawfully

30 be charged against such street or other railway company under its
31 franchise shall be assessed against and paid by it).

32 (a) The amounts so assessed against such abutting lots or
33 fractional parts of lots to the said abutting property owners, the
34 city and street car or other railway company as aforesaid, re-
35 spectively, shall bear interest at the rate of six per centum per
36 annum from and after the date of the acceptance of the work by
37 the city, and shall become and be due and payable in the one or
38 the other of the following ways, according to the method which
39 the council may have adopted for the doing of and the payment
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40 for the particular work of improvement to which said assessments
41 relate, namely: (1) In the event the method so adopted is by
42 an appropriation out of the funds in the city treasury not oth-
43 erwise appropriated in anticipation of the collection of said
44 special assessments, then the said assessments shall become due
45 and payable when declared final as hereinafter provided and to
46 each assessment which shall remain unpaid thirty days from
47 and after the same has been so declared final, a penalty of five
48 per centum of said assessment shall be added and collected by the
49 city; or, (2) In the event the method so adopted is by the issue
50-1 and sale of bonds in anticipation of the collection of said special
52 assessments as hereinafter provided, then said assessments shall
53 be due and payable in ten payments as follows, that is to say:
54 one-tenth of said amount, together with interest at the rate of
55 six per centum per annum from the acceptance of the work by
56 the city on the whole assessment, shall be paid to the city on or
57 before the first day of May next after the work is accepted, and
58 a like one-tenth, together with interest for one year upon the
59 whole amount remaining unpaid, on or before the first day of
60 May in each succeeding year thereafter until all have been paid,
61 and each installment shall bear interest at the rate aforesaid from

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62 the date of its maturity, and, moreover, to each installment re-
63 maining unpaid on the days herein specified for the payment
64-65 thereof a penalty of ten per centum of said installment shall be
66 added and collected by the city; and *provided, further*, than any
67 abutting property owner, the city or the street car or other railway
68 company against whose property said assessments have been made,
68-a shall have the right at any time after such assessments shall

69 have been certified to the treasurer for collection, as hereinafter
70 provided, to anticipate any or all of such assessments, and shall
71 be allowed to pay the face of said assessments, with interest only
72 to the time of payment.

73 (b) The sum or sums of money so assessed, together with the
74 interest and penalties aforesaid, for grading, paving, curbing,
75 sewerage or other of said improvements, shall be a lien upon the
76 lots or fractional parts of lots, and in the case of a street car or
77 other railway company, upon its tracks and franchises for the
78 distance of said improvement, from the date of acceptance of
79 said work by the city, and said lien shall have priority over all
80 other liens except those for taxes due to the state, and shall be on
81 a parity with the taxes and assessments due the city; *provided*,
82 *however*, such assessments shall, after six months from the date
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83 of the acceptance of said work, cease to constitute liens against
84 said property as against creditors of the owners thereof, or pur-
85 chasers thereof for value without actual notice of such liens,
86 unless within said period of six months a statement of said liens
87 shall be filed for record in the office of the clerk of the county
88 court of Wayne county. Said statement shall be made up and
89 certified before the expiration of said six months period by the
90 city recorder to the clerk of said county court as to all assess-
91 ments which shall remain unpaid four months after the ac-
92 ceptance of the work, and said statement shall describe the as-
93 sessments generally as for street improvements, give the names of
94 the property owners assessed, the location of the real estate af-
95 fected, date of acceptance of the work by the city, and the amount
96 of each assessment; and it shall be a sufficient description of the
97 location of said real estate to describe it as butting upon the par-
98 ticular street or alley so improved included between the termini
99 of the improvement, or by the description whereby said real es-
100 tate appears upon the land books of Wayne county. The county
101 clerk shall record said statement in the trust deed books in his
102 office, and index the same in the name of the city and also in the
103 name of each person against whose property said assessments ap-

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104 pear therein, and for such recordation the county clerk shall be
105 paid at the same rate for each one hundred words as provided by
106 law for recording deeds of trust.

107 (c) The city recorder shall also, so soon as such assessments
108 have been declared final by the council, enter the same of record
109 in the "municipal assessment docket" and make out bills therefor
110 against the property owners assessed, and certify the same for col-
111 lection to the city treasurer, who shall thereupon be charged with
112 said accounts. And upon default being made in the payment of
113 any assessment or installment thereof aforesaid, the same shall
114 be immediately reported to the council by the city treasurer and
115 the council shall forthwith refer the same to such officer as it
116 may deem expedient for collection; and payment of said delin-
117 quent assessments or installments, with the interest and penalties
118 aforesaid, may be enforced in all respects as provided for the
119 collection of city taxes, or the lien aforesaid may be enforced by
120 a suit in equity in the name of the city in any court having juris-
121 diction thereof, and the said delinquent assessments or any in-
122 stallment thereof, may be collected from the person against whom
123 the same were assessed by action at law before any court or a
124 justice of the peace having jurisdiction thereof. In addition to
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125 all other remedies for the collection of said delinquent assess-
126 ments or installments, the city may cause a certified copy of the
127 assessment to be filed in the office of the clerk of the circuit court
128 of Wayne county, West Virginia, and after ten days' notice by
129 personal service or after two weeks' publication of a notice in all
130 cases in which personal service cannot be had, upon the owner of
131 any lot on which said assessment constitutes a lien, said court
132 shall, on motion of the city of Kenova, order the sale of the lots
133 or property on which the assessment or installment constitutes a
134 lien to be made by the city treasurer at the front door of the
135 court house of Wayne county on such terms as to payment as
136 the court in its order may prescribe. The city treasurer shall
137 advertise the time, terms and place of such sale by a notice pub-
138 lished once a week for two successive weeks in some newspaper
138-a published and of general circulation in the city of Kenova, and
139 by posting a copy of such notice at the front door of the council
140 chamber for at least two weeks before the day fixed for such sale.
141 The city treasurer shall report any sale made hereunder to
142 said court for confirmation, and upon the confirmation of the
143 sale, the court shall authorize the city treasurer to execute and
144 deliver to the purchaser a deed for the property so sold, which

145 shall divest all the estate and interest therein of the former owner
146 and of all persons claiming under him and of all lienholders
147 against the property, and vest all such estate and interest in the
148 purchaser thereof. Out of the proceeds of any such sale the
149 court shall allow to the city treasurer all costs and expenses in-
150 curred in making the sale and reasonable compensation for his
151 services and a fee of five dollars for making the deed to the pur-
152 chaser, and shall order to be paid out of the proceeds, if sufficient,
153 all unpaid assessments or installments of assessments against said
154 property theretofore made by the city of Kenova, with all accrued
155 interest thereon and costs and expenses of the proceeding, in-
156 cluding an attorney's fee of ten dollars. The residue of the pur-
157 chase money shall be paid to the former owner of the lot, his
158 personal representative heirs or assigns.

159 Before making any sale of real estate in any such proceeding,
160 the city treasurer shall execute a bond in like manner as required
161 by the laws of the state of West Virginia of a special commis-
162 sioner.

163 (d) Immediately upon the completion and acceptance of any
164 of the work aforesaid constructed by virtue of this section, the
165 council shall direct the recorder to prepare and publish a notice
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166 which shall name and describe the location of the street or alley
167 upon which said work shall have been constructed, give the names
168 of the owners of each lot or fractional part of lot abutting upon
169 said street or alley, if known, and also the name of any street
170 car or other railway company having tracks thereon, and if the
171 name or names of any such owner be unknown, and such lot or
172 fractional part of lot shall be described with reasonable certainty
173 so that the same may be identified; and said notice shall also state
174 the number of feet, that each lot or fractional part of lot abuts
175 upon said street or alley, so graded, paved, sewerred or otherwise
176 improved and the street or alley intersections, and all abutting
177 city property and property not liable to assessments, and the
178 number of square feet or to be paid for by such street car
179 or other railway company, and also the respective amounts as-
180 sessed against each lot or fractional part of lot and against the
181 city and against any street car or other railway company, and
182 when said assessments or installments thereof shall be payable.

183 Said notice shall cite all said property owners and also such
184 street car or other railway company, to appear before the council
185 at a regular meeting thereof within thirty days following the
186 first publication thereof and show cause, if any they can, why

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187 the assessments aforesaid shall not be declared final. The council
188 shall, upon request of any one or more of the property owners so
189 assessed who shall appear and protest within the time aforesaid,
190 appoint a day for hearing the grievances of said protestants and
191 may correct or amend any assessment made against them, or
192 any of them, for good cause shown; which meeting shall be held
193 within ten days after the expiration of the thirty days mentioned
194 in said notice. The council may adjourn the hearing from time
195 to time. In case any property owner or railway company as-
196 sessed as aforesaid shall fail to protest within said period of
197 thirty days, the assessments as to them shall by ordinance be de-
198 clared final as laid, and protested assessments shall become and be
199 declared final when and to the extent found proper by the city
200 council, and the finding in all such cases shall be entered of rec-
201 ord upon the minutes of the meeting. The findings of the coun-
202 cil shall be conclusive.

Sec. 33. Whenever it is deemed expedient by the council to
2 provide for the grading, paving, curbing, sewerage or other im-
3 provement of any of the streets, or alleys, or parts thereof, to be
4 paid for by special assessments, as hereinbefore provided, the coun-
5 cil shall first, having on file in the city recorder's office, plans,
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6 specifications, profiles and estimates of the proposed improve-
7 ments showing the proposed grade of the street or alley after com-
8 pletion with reference to the abutting property, declare by reso-
9 lution the expediency of the work and whether payment therefor
10 shall be made by an appropriation from funds in the treasury not
11 otherwise appropriated in anticipation of special assessment pay-
12 able when declared final, or by the issue and sale of bonds thereto-
13 fore authorized as hereinafter in section thirty-five provided; and
14 said plans, specifications, profiles and estimates shall be open to
15 public inspection. Said resolution shall declare the general nature
16 of the work and refer for details to said plans, specifications, esti-
17 mates and profiles; and said resolution shall remain on file with
18 the city recorder for public inspection one week before the final

19 passage or adoption thereof, and shall be published once in each of
20 the two newspapers mentioned in section forty hereof as soon as
21 filed with the recorder. Until said resolution is finally passed
22 the council shall hear all persons interested in relation thereto at
23 any regular or special meeting, and after it decides to proceed
24 with the improvement, it shall pass said resolution, or the coun-
25 cil may correct or amend said resolution, plans, specifications,
26 profiles and estimates and approve and adopt them as corrected

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27 or amended; and said plans, specifications, profiles and estimates
28 shall be forthwith filed with the city recorder and be by him
29 preserved as a part of the records of his office.

30 (a) The council may then adopt and pass ordinances for said
31 purposes which shall provide generally the character of the work,
32 make appropriation for the payment therefor, and provide for
33 advertisement for proposals or bids for said work; and shall also
34 set forth the streets and alleys upon which the property is to be
35 assessed for said improvements, the general character of materials
36 which may be bid upon therefor, the mode of payment, and a ref-
37 erence to the resolutions theretofore passed for said improvements,
38 (giving the date of passage), and a statement of the intention of
39 council to proceed with said work in accordance with said resolu-
40 tion and in accordance with the plans, specifications, estimates
41 and profiles providing therefor.

42 In any case where the council has determined to pay for any
43 of such improvements out of funds in the city treasury not
44 otherwise appropriated, in anticipation of the collection of said
45 special assessments, said ordinance shall further provide for the
46 payment of said special assessments by the property owners re-
47 spectively when and as the same become final, and said ordi-
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18 nance shall then be passed and become and be effective as provided
49 in section thirty-four of this act; but when it has been determined
50 to issue and sell bonds for the payment thereof, the said ordinance
51 shall fix the time of payments in installments as hereinabove in
52 section thirty-two provided, and said ordinance shall not be
53 effective so as to permit any contract to be made or work to be
54 done thereunder until in addition to the compliance with the
55 provisions of said section thirty-four the fact that the proceeds
56 of the sale of said bonds have been received by the city shall be

57^o certified by the recorder, and such certificate entered upon the
58 minutes of the council.

Sec. 34. Every ordinance or resolution appropriating money
2 or ordering any street improvement or sewer, or making or
3 authorizing the making of any contract, or granting any fran-
4 chise or right to occupy or use the streets, highways, bridges or
5 public places in the city for any purpose, shall be complete in
6 the form in which it is finally passed, and remain on file with
7 the city recorder for public inspection at least one week before
8 the final passage or adoption thereof. No franchise or right to
9 occupy or use the streets, highways, bridges or public places in
10 said city shall be granted, renewed or extended, except by ordi-

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11 nance. No franchise shall be granted for a period exceeding
12 thirty years, and no amendment or addition thereto shall extend
13 beyond the termination of the original franchise.

Sec. 35. Where such work is provided to be paid out of
2 funds in the treasury not otherwise appropriated in anticipa-
3 tion of collection of special assessments, all said assessments and
4 interest and penalties collected therefor from the abutting prop-
5 erty owners, the city and the street car or other railway com-
6 pany shall be applied and paid on account of the cost of such
7 improvement, (either to the contractor, if he be unpaid, or to
8 the city in repayment of said appropriation, or such part there-
9 of as may have been paid by it thereon, as the case may be),
10 until the whole cost of said improvement and interest has been
11 paid in full. Said assessments shall be applied to no other pur-
12 pose, but if, by reason of penalties collected, any balance shall
13 remain after such full payment, said balance shall be turned into
14 the city treasury to the credit of the fund for street improve-
15 ments and used for no other purpose.

Sec. 36. Where such work is provided to be paid by the
2 issue and sale of bonds in anticipation of the collection of special
3 assessments, the issuance and sale of said bonds must have been
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4 theretofore authorized in the manner and form and subject
5 to the restrictions following: Whenever it is deemed expedient
6 by the council to provide for such grading, paving, curbing,
7 sewerage or other improvement, by the issue and sale of the
8 bonds of the city, it shall by resolution entered of re-

9 ord upon the minutes of its proceedings, so declare, and there-
10 upon the city shall be and is hereby authorized to issue its
11 bonds for said purposes in anticipation of special assessments
12 to be assessed and paid as hereinabove in section thirty-two pro-
13 vided, which bonds shall be in such amount as shall be sufficient
14 to pay the entire cost and expense of said improvements for
15 which such special assessments are levied, and the city is also
16 authorized to sell said bonds; *provided*, that the price for which
17 said bonds are sold shall not be below the par value thereof, and
18 said bonds shall be made payable in two, six, eight and ten years
19 from the date of the issue thereof, and shall bear interest at
20 not to exceed six per centum per annum, payable annually or
21 semi-annually, as the council may provide, and in the issuance
22 and sale of said bonds the city shall be governed by all the
23 restrictions and limitations of the constitution of this state,

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24 and, so far as not in conflict with the provisions of this sec-
25 tion, by the restrictions and limitations of the laws of this
26 state, with respect to the issuance and sale of bonds; and
27 all said assessments, (which shall be made payable in ten an-
28 nual installments as provided in section thirty-two hereof) shall
29 be applied to the liquidation of said bonds and the interest
30 thereon, and to that end paid to the city treasurer to the
31 credit of the sinking fund of the city and invested for the best
32 advantage of the city in the manner provided by law; and if
33 by reason of penalties collected with the delinquent install-
34 ments there shall be any balance after the payment of said
35 bonds and all accrued interest and costs, said balance shall be
36 turned into the city treasury to the credit of fund for street
37 improvements and used for no other purpose; *provided*, that
38 the city shall not by the sale or issue of said bonds cause the
39 aggregate of its debts of every kind whatsoever to exceed five
40 per centum of the value of the taxable property therein; and
41 *provided, further*, that nothing herein contained shall be con-
42 strued as authorizing the city to become indebted in any other
43 manner or for any other purpose to an amount, including the
44 existing indebtedness in the aggregate, exceeding two and one-

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45 half per centum of the value of the taxable property therein.
46 except for the purpose of grading, paving, curbing, and other-

47 wise improving the streets and alleys of the city, and construct-
48 ing sewers and sidewalks along, upon and under the same; and
49 extending and improving the water plant or system; nor shall
50 said city make such issue and sale of bonds without at the same
51 time providing for the levying of a direct annual tax sufficient
52 to pay annually the interest on such debt and the principal
53 thereof within and not exceeding ten years, if said bonds are
54 issued against assessments for local improvements to be liquidated
55 by such assessment, and not to extend thirty-four years if for
56 any other purpose.

57 (a) All of the assessments, interest and penalties collected
58 under the provisions of this section shall annually be applied
59 to the annual tax required to pay the interest on any debt created
60 for a local improvement and such principal, within and not
61 exceeding ten years; and in the event that the assessments,
62 interest and penalties so collected shall not amount to a sum
63 sufficient therefor, then the council shall collect so much of
64 said authorized levy as will pay annually the interest on such

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65 debt and the principal thereof within and not exceeding ten
66 years.

67 (b) It is especially provided that no bonds shall be issued
68 under the provisions of this section, unless and until the ques-
69 tion of issuing said bonds shall have first been submitted to a
70 vote of the people of the city, and shall have received three-
71 fifths of all votes cast at said election for or against the same.
72 The council may provide by ordinance for an election in any
73 year, at which the question shall be submitted to the people as
74 to whether the city shall be authorized to issue bonds for the
75 purpose and under the provisions of this section, to an amount
76 not to exceed in the year next following the date of said elec-
77 tion the amount recommended by said ordinance for said en-
78 suing year; but the ordinance providing for said election need
79 not specify in detail the location of the improvements contem-
80 plated to be paid for during the ensuing year out of said
81 aggregate issue authorized for said year, and notwithstanding
82 the provisions of sections two, three and six of chapter forty-
83 seven-a of the code, A. D., 1916, it shall be a sufficient descrip-
84 tion of the purpose for which said election is held if the ordi-
85 nance calling the same shall recite that it authorizes the coun-

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86 cil to issue bonds for the purpose of grading, paving, curbing,
 87 sewerage, or otherwise improving the streets and alleys of said
 88 city, or extending and improving the water works plant, at such
 89 times as the council or the water board, as the case may be,
 90 shall see fit during the ensuing year ending on the
 91 day of19....., to an amount not ex-
 92 ceeding in the aggregate during said year the sum of
 93 \$....., and when the council shall have once been
 94 authorized by a vote of the people to issue bonds for said purpose
 95 and in a sum not to exceed the amount set forth in the ordi-
 96 nance calling the said election, no further election shall be neces-
 97 sary for the issuing of such bonds during said ensuing year up to
 98 the amount stipulated in said ordinance calling said election, but
 99 the council shall from time to time during said ensuing year by
 100 ordinance authorize the issue of said bonds, in such sums, and
 101 for the improvement of such streets and alleys as to it may
 102 seem best, subject to the provisions of sections thirty-two, thirty-
 103 three and thirty-five of this act. Any bonds authorized for the
 104 extension and improvement of the water works or plant shall
 105 be issued and delivered to the treasurer, and by him sold as
 106 provided by law, and the proceeds of such bonds shall be ex-

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22 certificate of the printer or manager of the paper publishing any
 23 notice herein required, or the affidavit of the party posting any no-
 24 tice that may be served by posting, shall be accepted as *prima facie*
 25 evidence of the publication of the notice. Such certificate and
 26 affidavit shall be filed with the city recorder and preserved as a
 27 part of the records of his office.

28 The rates charged for the publication of any notice herein re-
 29 quired to be given shall not exceed the rate prescribed by the laws
 30 of the state of West Virginia for the publication of notices re-
 31 published in suits in chancery in the circuit courts of the state.

Sec. 43. The mayor shall the right to expend any money
 2 for the relief of poor and indigent persons, which expenditure
 3 shall be reported to the common council at its next meeting.

Sec. 44. In the absence or disability of the mayor, the re-
 2 corder shall act as such mayor and shall have all the powers and
 3 perform all the duties of such office. In the absence or disability
 4 of the mayor and recorder, the council shall designate two of their

5 members to act as such mayor and recorder, which members shall
6 have all the rights and powers and exercise duties of said offices.

Sec. 45. The council shall have the power to appoint a board
2 health for said city, composed of three members, one of which

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107 pended only for the purpose for which said indebtedness was
108 authorized.

109 The aggregate amount of bonds authorized by said annual
110 election shall not be exceeded during said year, unless and ex-
111 cept the same be authorized by a special election held at a sub-
112 sequent time in said year and duly called as provided for the
113 calling of the annual bond election.

114 The provisions of chapter forty-seven-a of the code concern-
115 ing bond elections, shall, so far as they are not in conflict with
116 the provisions of this section, apply to the annual bond elec-
117 tions and special bond elections herein provided for.

Sec. 37. The city council is hereby authorized and empowered
2 to cause to be put down a suitable curb of brick, stone or other ma-
3 terial along and for the footways and sidewalks of the public
4 streets and alleys of said city, and to order and cause the grading,
5 laying or relaying or repair of sidewalks and gutters, of such ma-
6 terial and width as the council may determine; and to require the
7 owners or occupiers of the lot or lots or parts of lots facing upon
8 said streets and alleys to keep such sidewalks clean and in good
9 repair. The owners or occupiers of the lots or fractional parts of
10 lots abutting upon such streets and alleys shall not grade or lay
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11 any such sidewalk, curb or gutter, unless specially requested to do
12 so by resolution adopted by the council, and then only of the kind
13 prescribed by the council; but the city may lay such sidewalk,
14 curb or gutter and grade therefor, or may let said work by con-
15 tract, and in either case the total cost of said work shall be charged
16 upon and assessed against the lots or fractional parts of lots abut-
17 ting upon the streets and alleys so improved, in proportion to the
18 number of feet frontage thereon of each such lot or part of lot,
19 and shall be and remain a lien thereon from the date of the ac-
20 ceptance of the work by the city, and said lien shall have priority
21 over all other liens except those for taxes due to the state, and
22 shall be on a parity with the taxes and assessments due the city,
23 and shall bear interest from the date of acceptance of the work by

24 the city, or from the completion thereof when done by the city, and
25 and shall become due and payable when declared final by the
26 council; and to each such assessment remaining unpaid thirty
27 days after maturity there shall be added and collected by the city
28 a penalty of ten per centum of the amount of such assessment in
29 addition to the interest. The amount so assessed against any lot,
30 or fractional part of lot, together with the interest and penalty
31 aforesaid, shall also be a debt against the owner of such lot or part

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32 of lot. Immediately upon completion of the work, if done by the
33 city, or upon acceptance of the work if done by contract, the coun-
34 cil shall cause the city recorder to publish a notice which shall
35 give the names of the owners of each lot or fractional part of lots
36 over which such sidewalks are graded, paved, curbed or laid, if
37 such names be known, and if unknown, shall describe such lot or
38 part of lot with reasonable certainty sufficient to identify the same,
39 and shall also state the number of feet over each lot or part of
40 lot so graded, curbed or laid with sidewalk, together with the
41 amount assessed against each owner; which notice shall be pub-
42 lished as provided for the publication of notice of street assess-
43 ments hereinabove and shall cite all said owners to appear before
44 the council at a regular meeting to be held within thirty days fol-
45 lowing the first publication thereof and show cause, if any they
46 can, why such assessments should not become final. Protests
47 against said assessments shall be heard and determined and said
48 assessments shall become final and be recorded by the city re-
49 corder, certified for collection, charged to the treasurer, collection
50 thereof enforced against the property assessed and against the
51 owner thereof, and a certificate of said assessments certified to the
52 clerk of the county court for recordation, and recorded in all re-
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53 spect in the same manner and with the same legal effect as pro-
54 vided in the case of assessments for street paving or other local
55 improvements in this act provided. And all of the assessments,
56 interest and penalties thereon so collected from the abutting lot
57 owners on account of the grading and curbing and laying of said
58 sidewalks shall be applied to the cost of making the improvement
59 for which said assessments were laid, and for no other purpose:
60 but if by reason of the penalties collected on delinquent assess-
61 ments there shall be any balance over and above the cost of such

62 improvement, such excess shall be paid into the city treasury to
63 the credit of the fund for street improvements and shall be used
64 for no other purpose.

Sec. 38. Whenever any assessments for sidewalks, street paving, grading, sewerage or other improvements herein above provided for shall have been paid in full, the city treasurer shall execute on behalf of the city and deliver to the party paying the same a proper release on the lien of such assessment, which release shall be substantially in the form prescribed by section two of chapter seventy-six of the one thousand nine hundred and thirteen code of this state, (serial number three thousand eight hundred and fifty-nine) for the release of the lien of judgments and decrees.

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Sec. 39. No assessment herein authorized against or upon any property for any local improvement shall, in the first instance exceed in amount twenty-five per centum of the value of such property after the improvement is completed. And all assessments for local improvements which may be made against any property during the fifteen years next ensuing after the first assessment shall have been made, including the first assessment, shall not exceed at any time in the aggregate one-third of the value of such property.

Sec. 40. The remedies herein provided for the enforcement of any power, right or authority by this charter conferred upon said city of Kenova shall not be exclusive or in derogation of any other right or remedy which it does or shall possess under any law or under the constitution of the state to enforce in any court of law or equity any such power, right or authority.

Sec. 41. If in any case any special assessment shall be illegal or void, either in whole or in part, a new assessment may be made in the same manner, as nearly as may be, as other special assessments are authorized by this act to be made, to pay for the improvement, the former assessment for which was or is illegal or void as aforesaid.

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Sec. 42. All ordinances, resolutions and notices of every kind, the publication of which is required by any provision of this act, shall be published for the period of time in each particular instance specified, but in all cases in which the time the publication is to run is not specially provided, such publication shall be once a week for

6 twoconsecutive weeks. In all cases the the manner of publication
7 shall be by causing the same to be inserted in the two principal
8 newspapers published in the city of Kenova of opposite political
8 opinions and affiliations; of the owner of either of such newspapers
10 will not publish such notices in any instance at the rate herein pro-
11 vided to be paid, or if only one such newspaper for any period be
12 published in the city of Kenova, then, by inserting such notice in
13 the paper that will publish the same at the rate hereinafter provid-
14 ed, or in any newspaper published in the city of Kenova. If the
15 newspaper published in said city will in any instance publish any
16 notice required, at the rate of compensation hereinafter provided,
17 then and in every such case it shall be sufficient publication thereof
18 to post a copy of such notice at the from door of the building in
19 which the city council holds its meetings, for a period of two
20 weeks. Every such publication or posting shall be held and
21 deemed to be equivalent to personal service in every case. The
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3 shall be a regular practicing physician and reside within the city
4 limits. The compensation of said board of health shall be fixed
5 by the council. The said board of health shall have all the pow-
6 ers within the city limits as are conferred on county boards of
7 health.

Sec. 46. The assessments provided for in this act shall be
2 made at the time and in the manner provided for in the general
3 laws of the state of West Virginia. New assessments may be made
4 in case the assessment for any one year is void.

Sec. 47. The city of Kenova shall have power within and with-
2 out its territorial limits to construct, condemn and purchase, ac-
3 quire, lease, improve, add to, maintain and conduct and operate
4 water works, light plants, power plants, heating plants, inciner-
5 ating plants, local in use, and everything required therefor, for the
6 use of said city, and the inhabitants thereof; and in such system,
7 plants, works or ways, or in contracts in relation thereto, or in
8 connection therewith, that may exist, and which said city may de-
9 sire to purchase, may be purchased or acquired by said city, which
10 may enforce such purchases by proceedings at law or in equity, by
11 right of eminent domain, and said city shall have the power to issue
12 bonds upon the vote of the tax-paying electors at any special or

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13 general election in any amount necessary to carry out any of said

14 powers or purposes, said amount being limited only by the consti-
15 tution and the laws of the state of West Virginia and by other
16 provisions of this charter; *provided, however*, that the power to
17 condemn shall not be exercised for the purpose of acquiring such
18 utilities now existing and operating under franchises granted by
19 the town of Ceredo or the city of Kenova, excepting under the
20 terms of said franchises.

Sec. 48. The ordinances of the city of Kenova shall be en-
2 enforced by the imposition of fines, forfeitures and penalties
3 against any person violating such ordinances, or any of them, and
4 and the council shall prescribe in each particular ordinance made
5 for that purpose the minimum and maximum fines for the in-
6 fraction thereof, which maximum shall not exceed one hundred
7 dollars, exclusive of costs, for any one specific offense. The same
8 cost shall be taxed in each criminal case tried in the mayor's court
9 as is provided by law to be taxed by justices of the peace in the
10 trial of misdemeanor cases coming under the jurisdiction of jus-
11 tices of the peace, except that in every contested criminal case the
12 mayor may also tax an attorney's fee of not exceeding ten dollars,
13 to be paid to the city prosecutor for his services in said case, if a

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14 conviction be had in said case.

Sec. 49. The mayor's court may provide, in all judgments of
2 conviction for the violation of any ordinance of the city, a fine, and
3 that the person against whom said fine is assessed shall be imprison-
4 ed until the fine and costs of prosecution shall be paid, or the same
5 are remitted by the mayor or council. Any person committed for the
6 non-payment of fine and costs while in custody may be compelled to
7 work on the streets, alleys, public grounds or works until such
8 fine and costs are paid, allowing one dollar per day for the work of
9 said prisoner to apply on said fine and costs.

Sec. 50. The council may by ordinance provide that all revenues
2 of the city other than those belonging to the sinking fund may be
3 placed in one general fund, or in trust funds as may be deemed
4 expedient, and may provide, if there be more than one of such
5 funds, for the transferring of money from one of such funds to
6 another fund, by unanimous vote of the council.

Sec. 51. Every claim against the city must be approved by the
2 council, and be filed with the recorder in writing, with a full ac-
3 count of all items thereof, and must be subscribed by the claim-

4 ant, or his agents or attorney, who, on oath, shall declare that the
5 same is correct, just, due and unpaid, and no claim or demand

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6 shall be allowed or suit filed thereon unless so prepared and filed,
7 and unless suit shall be filed upon such claim within twelve months
8 after same shall have been filed with the recorder in writing, as
9 above provided, such claim shall be forever barred.

Sec. 52. All existing ordinances of the town of Ceredo and
2 the city of Kenova not inconsistent with this charter or inappli-
3 cable under the altered form of municipal government provided by
4 this charter, shall be and continue in full force and effect as ordi-
5 nances of the city of Kenova, until amended or repealed, or until
6 they expire by their own limitation; and no existing rights, action,
7 (civil or penal) suit or proceeding, or contracts, or franchises,
8 shall be affected in the change of the form of government of the
9 territory set out in section two of this act; but all shall continue
10 as though no such change had taken place; and all debts, penalties
11 and forfeitures which have accrued, or which may hereinafter
12 accrue by virtue of anything heretofore done or existing, shall
13 inure to the benefit of the city, and may be sued for or recovered
14 by said city as though this charter had not been adopted. Nothing
15 herein, however, shall legalize or make legal any invalid indebted-
16 ness of the town of Ceredo or the city of Kenova heretofore con-
17 tracted or incurred, or impair any defense against the payment of
18 the same; nor shall the adoption of this charter in any wise inter-

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19 fere with any proceedings heretofore instituted relating to the
20 levy and collection of taxes, special assessments, or levies of any
21 nature, or with any proceeding to enforce the payment of the
22 same, and all contracts heretofore entered into by the town of
23 Ceredo and the city of Kenova shall remain in full force and ef-
24 fect and be completed under ordinances existing at the time of
25 the adoption of this charter. *Provided*, that this act shall not
26 become effective until approved and ratified by a majority of the
27 legally qualified voters residing within the territory proposed to
28 be annexed to the town of Kenova, as herein set forth. And to
29 that end, the county court of Wayne county shall, within thirty
30 days after the passage of this act, call a special election to be
31 held on a day to be specified by it, not less than forty nor more
32 than sixty days thereafter, to be participated in by the legally

33 qualified voters residing within said territory. Said election
 34 shall be held at the various voting precincts whereat the voters
 35 residing within the territory aforesaid now vote at general elec-
 36 tions, viz; at the bank building and the town hall in Ceredo, and
 37 at the city hall and Grand hotel in Kenova.

38 Notice of the time, places and purpose of said special election
 39 shall be given by said court, by its clerk, by publication in the
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40 Ceredo Advance, a newspaper published in Wayne county, for four
 41 weeks prior to said election, and by posting copies of said notice at
 42 the front door of the several voting precincts aforesaid, for a like
 43 period.

44 The county court shall appoint the same number of commis-
 45 sioners, challengers and poll clerks for the various voting places
 46 aforesaid, to hold and conduct said election, as is required in a
 47 general election, but said election officers shall be residents of and
 48 legal voters within the territory proposed to be annexed,

49 It shall also provide for all necessary ballots, poll books, ballot
 50 boxes, tally sheets and election supplies required for the con-
 51 duct of said election. The ballot shall be in the form or to the
 52 effect following:

53 Special Election
 54 , 1921
 55 (Filling in date determined upon.)

56 [] For annexation to Kenova.

57 [] Against annexation to Kenova.

58 And on the reverse side the names of the clerk of election and
 59 their titles, said names to be written in by said clerks.

60 No registration of the voters within said territory shall be
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61 required to be made prior to said election, but the registration
 62 books used at the last general election at the voting places in
 63 question, or certified copies thereof, shall be sufficient; and all
 64 voters who are qualified voters within and legal residents of the
 65 territory proposed to be annexed on the day of election shall be
 66 entitled to vote, whether their names appear on said registration
 67 books or not.

68 The election shall be conducted, the vote ascertained and counted
 69 and the result certified and announced, as at general elections, as
 70 near as may be. And the election returns shall be canvassed by
 71 said county court, sitting as a board of canvassers, within five

72 days after said election, or at a general election, and in the same
 73 manner, and the result shall be entered of record on the record
 74 books of said court, and said record shall be final evidence of the
 75 result of said election. And said court shall certify the result
 76 thereof to the recorders of the towns of Ceredo and Kenova.

2 regular session, and all acts amendatory thereof, and all other acts
 3 inconsistent herewith are hereby repealed.

House Bill No. 89

(BY MR. MANNING)

[Introduced January 19, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 89

A BILL to amend section twenty-eight of chapter forty-seven of the
 acts of the legislature of one thousand eight hundred and sev-
 enty-two and one thousand eight hundred and seventy-three;
 chapter eighty-three of the acts of one thousand eight hundred
 and eighty-two; chapter thirty-seven of the acts of one thousand
 nine hundred and nine; and chapter twenty of the acts of one
 thousand eight hundred and seventy, chapter forty-seven, sec-
 tion twenty-nine of the acts of one thousand eight hundred and
 seventy-two and one thousand eight hundred and seventy-three,
 and chapter eighty-three of the acts of one thousand eight hun-
 dred and eighty-two, and chapter thirty-seven of the acts of
 one thousand nine hundred and nine.

Be it enacted by the Legislature of West Virginia:

That section twenty-eight, chapter forty-seven of the acts of the
 legislature of one thousand eight hundred and seventy-two and one
 thousand eight hundred and seventy-three, chapter eighty-three of the
 acts of the legislature of one thousand eight hundred and eighty-
 two, chapter thirty-seven of the acts of the legislature of one
 thousand nine hundred and nine, and chapter twenty of the acts

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of the legislature of one thousand eight hundred and seventy, sec-
 tion twenty-nine, chapter forty-seven of the acts of the legislature

of one thousand eight hundred and seventy-two and one thousand eight hundred and seventy-three, chapter eighty-three of the acts of the legislature of one thousand eight hundred and eighty-two, and chapter thirty-seven of the acts of the legislature of one thousand nine hundred and nine be amended as follows:

Section 22. Every person who shall serve upon a grand jury shall be entitled to receive for such services not less than four dollars and not more than six dollars for each day he may so serve, and in addition thereto the same mileage as allowed to witnesses, to be paid out of the county treasury. But he shall not be paid for more than four days services at any one term of the court, except in the counties of Kanawha, McDowell, Fayette, Cabell, Marshall, Wetzell, Tyler, Marion, Wood, Ohio and Mingo, where such grand jurors shall not be paid for more than ten days' service for any one term of court.

Sec. 23. Any person summoned as aforesaid, by virtue of a *venire facias* or otherwise and actually attending upon the court, or attending at the court house, at the time summoned, whether he be called to serve on a jury or not, shall for each day he

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so attends, be entitled to receive not less than four dollars and not more than six dollars and the same mileage allowed to witnesses, to be paid out of the county treasury. The county court shall fix the compensation as provided for above, in the same manner and at the same time that the annual allowances are made to county officers. *Provided*, that for any day that any person shall be sworn to serve on a case of felony, he shall, for that day, and any other days he may so serve on such case, be paid six dollars out of the state treasury. That for each day he shall not actually attend the court house he shall receive nothing, and that mileage shall be allowed but once during the term. There shall be taxed in the costs against any person against whom a judgment on the verdict of a jury may be rendered in a case of misdemeanor, and against any person against whom judgment on the verdict of a jury may be rendered in a civil action, and against any person on whose motion the verdict of the jury is set aside and a new trial granted, twenty dollars for jury costs, which, when collected from the party, shall be paid into the county treasury. All moneys so received by the clerk shall be forthwith paid by him to the sheriff, and the

25 clerk and his sureties shall be liable therefor on his official bond,

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26 as for other moneys coming into his hands by virtue of his
27 office. The clerk of the circuit court of each county shall an-
28 nually certify to the county court a list of all moneys so paid
29 to him and by him paid to the sheriff and in addition thereto
30 a correct list of all the cases in which jury fees have been taxed,
31 and are, at the time, properly due and payable into the county
32 treasury, and the sheriff of the county shall be held to account,
33 in his annual settlement, for all moneys collected by him.

34 All acts and parts of acts in conflict with this act are hereby
35 repealed.

House Bill No. 165

(BY MR. THOMPSON)

[Introduced January 19, 1921; referred to the Committee on Education.]

House Bill No. 165

A BILL authorizing the board of education of Philippi independent school district in the county of Barbour to issue bonds for the purpose of providing such grounds as may be necessary for the erection of a public and high school building, either combined or separately, and for the purpose of erecting such building or buildings thereon for said district and for the proper equipment thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Philippi independent school district, in the county of Barbour, West Virginia, be, and it is hereby authorized and empowered to issue the bonds of said school district to an amount sufficient for the purpose of providing such lot of land or additional lot of land as may be necessary and to erect thereon, furnish and equip a suitable public school building and high school building, combined or separately, as said board may deem proper, within said district.

Sec. 2. Said bonds shall be of such denomination as said board of education shall by order prescribe, and shall be payable in no:

3 less than five years nor more than thirty four years, at the option
4 of the said board of education, and shall bear interest at the rate
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5 of no to exceed six per cent per annum, payable annually; *pro-*
6 *vided*, that the aggregate of said bonds for said purposes, includ-
7 ing existing indebtedness of said district, shall not exceed five per
8 centum of the value of all the taxable property in said district, to
9 be ascertained by the last assessment for state and county pur-
10 poses next before the incurring of said indebtedness; and said
11 board of education shall provide by levy a direct annual tax suffi-
12 cient to pay annually the interest on such indebtedness and the
13 principal when due.

Sec. 3. But no such bonds shall be issued under this act unless
3 the question of issuing the same shall have first been submitted to
4 the voters of said school district at an election to be held for that
5 purpose and shall have received three-fifths of all the votes cast,
6 and said election shall be conducted under the supervision of said
7 board of education and the result thereof ascertained and certified
8 by said board; for the purposes of holding said election said board
9 shall appoint at least three qualified voters, one of which persons
10 so appointed shall act as clerk and the other two shall act as com-
11 missioners of said election and said election shall be held at the
12 court house in the city of Philippi, and all qualified voters within
13 said district shall be entitled to vote upon such question at said
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14 election at said place. The registration of voters taken for the
15 general election in November, one thousand nine hundred and
16 twenty shall be taken as a proper registration of the voters entitled
17 to vote at said election, after the secretary of the said board of edu-
18 cation has revised the said list and stricken therefrom the names of
19 all persons who have died or removed from said district since said
20 list was made up and have added thereto the names of all such per-
21 sons as had become entitled to vote in said district since said reg-
22 istration. A notice of said election setting out therein the order
23 of the board entered thereon, duly published in two newspapers of
24 general circulation in said district once a week for two weeks
25 prior to said election shall be a sufficient notice and publication
26 thereof. Said board of education is directed and authorized to do
27 any and all acts in respect to the holding of said election and issu-
28 ance of said bonds that may be necessary to carry the purposes of

29 this act into effect. All acts and parts of acts conflicting here-
30 with so far as they relate to said independent school district are
32 are for the purposes of this bond issue and not further made inop-
32 erative.

House Bill No. 72

(BY MR. WILLIAMSON)

[Introduced January 17, 1921; referred to the Committee on the Judiciary.]

A BILL to amend and re-enact section two of chapter forty-six of the acts of the legislature one thousand nine hundred and nine, relating to the appointment of notaries public, and extending their jurisdiction.

Be it enacted by the Legislature of West Virginia:

That section two of chapter forty-six of the acts of the legislature one thousand nine hundred and nine be amended and re-enacted so as to read as follows:

The governor shall appoint and commission so many
2 notaries in this state and for such counties as he may deem proper,
3 who shall hold their office respectively for a term of ten years
4 from the date of their commission, but may be removed or their
5 office vacated, pursuant to the third and tenth sections of chapter
6 seven, or the twenty-first and twenty-second sections of chapter
7 ten of the code.

8 The jurisdiction of notaries public shall be co-extensive with
9 the state.

10 *Provided*, that before such appointment is made, the applicant
11 shall obtain from the county court of his county, a certificate

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12 showing the applicant to be a person competent to perform the du-
13 ties of such office, of good moral character and a resident of the
14 county from which the appointment is made.

15 If any person who is not a notary public performs or attempts
16 to perform any official acts, or duties of a notary public shall be
17 deemed guilty of a misdemeanor and upon conviction thereof
18 fined not less than one hundred dollars, and may in the discretion

19 of the court be confined in the county jail for not less than thirty
20 days.

21 All acts or parts of acts inconsistent herewith are hereby re-
22 pealed.

House Bill No. 35

(BY MR. LANTZ)

[Introduced January 17, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 35

A BILL to amend and re-enact section one hundred and eighty-three
of chapter fifty of the code of West Virginia and to add thereto
section 183-a, all relating to justices' dockets.

Be it enacted by the Legislature of West Virginia:

That section one hundred and eighty three of chapter fifty of the
code of West Virginia be amended and re-enacted so as to read, with
section 183-a, all relating to justices' dockets.

Section 183. Every justice, upon the expiration of his term
2 of office, shall, except as provided in section one hundred and
3 eighty-three-a of this chapter, deposit with his successor his official
4 docket, as well as those of his predecessors, which may be in his
5 custody, together with all papers relating to his judicial proceed-
6 ings, in their proper files and orders, and all statutes, books and
7 papers received by him in his official capacity, to be kept by such
8 successor as public records and property.

Sec. 183-a Every justice, upon the expiration of his term of
2 office, shall deposit with the clerk of the circuit court of his county
3 all official dockets which may be in his custody in which the
4 last entry shall date back ten years or more from the date of the
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5 expiration of his term of office, to be received, filed and preserved
6 by the said clerk as public records and property. The justice shall
7 make an entry in his official docket giving a list and description
8 of the docketes deposited with the clerk and shall certify to same
9 under his official signature.

House Bill No. 46

(BY MR. HOWARD, by request.)

[Introduced January 17, 1921; referred to the Committee on the Judiciary.]

House Bill No. 46

A BILL to amend and re-enact section twenty-nine of chapter seventy-eight of Barnes' code of West Virginia, of one thousand nine hundred and nineteen.

Be it enacted by the Legislature of West Virginia:

That section twenty-nine of chapter seventy-eight of the acts of the legislature of West Virginia of one thousand nine hundred and nineteen, concerning primary elections be amended and re-enacted so as to read as follows:

Section 19. Between the first and fifteenth day of August, in 2 each year, in which a president of the United States is to be 3 elected, each political party shall, at some convenient place to be 4 designated by the chairman of the state committee thereof, hold a 5 meeting for the purpose, and shall formulate and promulgate a 6 state platform, and select presidential electors for the state at 7 large and for each congressional district. And if at the said 8 election a judge or judges of the supreme court of appeals is or 9 are to be elected, the candidates of such party for such judge 10 shall be nominated, and the name of such candidates for such

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11 officers of judge and elector shall be certified by the officers of 12 said convention to the secretary of state.

13 Candidates for judges of the circuit courts of the several cir- 14 cuits, and judges of the common pleas, intermediate or criminal 15 court shall hereafter be nominated at a regular state primary 16 election at which all other county, district and state officers are 17 nominated, and in all respects be governed by the rules of said 18 primary.

19 And all nominations so made at said primary election for com- 20 mon pleas, intermediate, criminal or circuit judges shall be certi- 21 fied by the county court of each county sitting as a board of can-

22 vassers as required by said primary election law within twenty
 23 days thereafter to the clerk of the circuit court of the county or
 24 circuit as the case may be.

25 All acts and parts of acts inconsistent and in conflict with
 26 this act, are hereby repealed.

House Bill No. 291

(By MR. MURPHY.)

[Introduced January 21, 1921; referred to the Committee on
 Medicine and Sanitation.]

House Bill No. 291

A BILL to amend and re-enact section nine of chapter one hundred
 and fifty of Barnes' code of one thousand nine hundred and
 sixteen relating to the practice of medicine.

Be it enacted by the Legislature of West Virginia:

That section nine of chapter one hundred and fifty of Barnes' code be amended and re-enacted so as to read as follows:

Section 9. The following persons and no others shall hereafter
 2 be permitted to practice medicine in this state. (1) All such
 3 persons as shall be legally entitled to practice medicine in this
 4 state at the time of the passage of this act. (2) All such per-
 5 sons as shall be graduates of a reputable medical college, recog-
 6 nized as such by the state board of health, who shall pass an ex-
 7 amination before said state board of health, and shall receive cer-
 8 tificates therefrom, as hereinafter provided. *Provided, also,*
 9 that the state board of health, or a majority of them, may accept in
 10 lieu of an examination, the certificate of license to practice medi-
 11 cine legally granted by the board of registration or examination or
 12 licensing board of any other state, territory or any foreign coun-
 13 try whose standard of qualification for the practice of medicine is

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14 equivalent to that of this state, and grant to the said applicant a
 15-16 certificate of license to practice medicine in this state; *provided,*
 17 such states, territories or foreign countries accord like privileges
 18 to medical licentiates of this state. The state board of health

19 shall at such times as a majority of them may deem proper,
20 hold examinations for the licensing of practitioners of medicine;
21 such examination shall not be less in number than three during
22 each year, and shall be held at such points in the state as shall be
23 most convenient to those presenting themselves for examination,
24 or to the state board of health; at such examinations written and
25 oral questions shall be submitted to the applicants for license,
26 covering all the essential branches of the sciences of medicine and
27 surgery, and the examination shall be a thorough and decisive test
28 of the knowledge and ability of the applicants. The president
29 and secretary of the state board of health shall issue certificates
30 to all who successfully pass the said examination, and to all those
31 whose certificates said board of health or a majority of them shall
32 accept in lieu of an examination as hereinbefore provided, except
33 that in all the certificates issued to applicants who adhere to the
34 osteopathic school it shall appear that it is for the practice of
35 osteopathy, and such certificates after being duly recorded as here-
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36 inafter provided, shall be deemed licenses to practice medicine,
37 surgery and osteopathy in all their branches in this state. The
38 state board of health shall give timely notice of the time and place
39 of holding each such examination by publishing such notice in at
40 least three newspapers of general circulation in this state, and all
41 such persons wishing to present themselves for examination shall
42 notify the secretary and comply with the rules of the state board
43 of health. No applicant for license to practice medicine in this
44 state shall be rejected because of his or her adherence to any par-
45 ticular school or theory of medicine. The state board of health
46 shall call to their assistance in the examination of any applicant
47 who professes the homeopathic, osteopathic or eclectic school of
48 medicine, a homeopathic or eclectic physician entitled to practice
49 medicine in this state under this act, and such homeopathic,
50 osteopathic or eclectic physician so called to the assistance of the
51 state board of health, shall be allowed the per diem and actual
52 expenses incurred hereinbefore allowed to regular members of the
53 state board of health; *provided, however*, that the provisions of
54 this and the preceding section shall not apply to physicians liv-
55 ing in other states and duly qualified to practice medicine therein,
56 who shall be called into consultation into this state, by a physician
57 legally entitled to practice medicine in this state under this chap-

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58 ter; and, *provided, further*, that the provisions of this chapter
59 shall not apply to females practicing midwifery, or to commis-
60 sioned officers of the United States army and navy and marine
61 hospital service when in the actual discharge of their duties as
62 such commissioned officers; *provided, further*, that this act shall
63 not apply to osteopathic physicians practicing in the state at the
64 time this act takes effect who are graduates of any recognized
65 reputable school of osteopathy; *Provided, further*, that this act
66 shall not apply to any person who has been practicing medicine
67 continuously for as much as twenty years or more previous to the
68 passage of this act.

69 If any person has been practicing medicine in this state con-
70 tinuously for twenty years or more, upon affidavit of such person
71 and sufficient evidence to the public health council that such
72 person has been in such continuous practice for said period, and
73 upon the further evidence that he is a man of good moral char-
74 acter, it then shall be the duty of said public health council to is-
75 sue such person a license without any examination.

76 All acts and parts of acts inconsistent herewith are hereby re-
77 pealed.

(BY MR. HENSHAW.)

[Introduced January 21, 1921; referred to the Committee on Education.]

House Bill No. 263

A BILL to amend and re-enact section thirty-one of chapter two of the acts of the legislature of West Virginia for the year one thousand nine hundred and nineteen, pertaining to county superintendents of schools.

Re it enacted by the Legislature of West Virginia:

Election, Qualication, Oath, Bond.

Section 31. The county superintendent of schools elected at
2 the general election in November, one thousand nine hundred and
3 eighteen, shall hold office for the full term of four years for which
4 they were elected, and until their successors are elected as herein
5 provided and are qualified according to law.

House Bill No. 263

[Introduced January 21, 1921; referred to the Committee on Education.]

(By MR. DOWNS.)

6 A county superintendent of free schools shall be elected in each
7 county by the voters thereof, at the general election held on the
8 Tuesday after the first Monday in November, one thousand nine
9 hundred and twenty-two, who shall be a resident of the county in
10 which he is elected and whose term of office shall commence on the
11 first day of July next after his election, and continue for four
12 years and until his successor is elected and qualified according to
13 law. The county superintendent of free schools shall immediate-

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14 ly upon receiving the certificate of election from the canvassing
15 board, or the county court, forward a written notice thereof to the
16 state superintendent of free schools.

17 In case of a tie in the vote for a county superintendent of free
18 schools, the president of the various district boards of education
19 shall at a meeting called for that purpose, at the court house of
20 the county by the county superintendent of free schools not less
21 than six nor more than twelve days after the result of such elec-
22 tion is ascertained, appoint one of the persons receiving the high-
23 est number of votes for said office at the said election as county
24 superintendent of free schools who shall give notice as aforesaid
25 to the state superintendent of his appointment. A notice of such
26 meeting shall be made out by the county superintendent and served
27 upon the president of each district board of education at least
28 three days before the day of such meeting in the manner provided
29 by law for the service of other process.

30 After this act shall go into effect, no person shall be elected
31 or appointed to the office of county superintendent of schools who
32 does not, at the time of his election hold a supervisor's certificate
33 or who is not a graduate of a standard normal school or who has
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34 not completed courses in other institutions that, in the opinion
35 of the state board of education, are equivalent to such graduation.
36 *Provided, however,* that anyone who holds a first grade elementary
37 certificate, or its equivalent, issued prior to July first, one thousand
38 nine hundred and twenty-two, on which he has taught for a period

39 of ten years, or any veteran of the world war who holds a first
40 grade elementary certificate, shall be eligible to the office of county
41 superintendent, the same as the ones possessing the qualifications
42 named in this section.

43 Before assuming any of the duties of his office, or exercising
44 any authority whatsoever, every county superintendent of schools
45 shall qualify before the clerk of the county court, and he shall also
46 execute with said clerk a bond with approved security in the penai-
47 ty of one thousand dollars conditioned upon the faithful perform-
48 ance of the duties of his office and upon the accounting and pay-
49 ing over to the proper authorities of all money coming into his
50 hands. Said clerk shall within five days after said qualification
51 and execution of bond, certify to the state superintendent of schools
52 the name of such county superintendent and the fact of his quali-
53 fying and executing such bond.

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53 Every county superintendent of schools shall devote his entire
54 time during his term of office to the performance of his duties as
55 superintendent.

House Bill No. 211

(BY MR. MURPHY)

[Introduced January 20, 1921; referred to the Committee on
Education.]

House Bill No. 211

A BILL to amend and re-enact section one hundred and nine of
chapter two of the acts of the legislature of one thousand nine
hundred and nineteen regular session, relating to teachers' cer-
tificates.

Be it enacted by the Legislature of West Virginia:

That section one hundred and nine of chapter two of the acts of
the legislature of one thousand nine hundred and nineteen, relating
to teachers' certificates, be and the same is hereby amended and
re-enacted to read as follows:

*Re-instatement of Certificates, Short Courses, Renewals, Emergency
Re-instatement of Certificates, Short Courses, Renewals, Emergency
Certificates.*

Section 109. In any case where any person has held
2 a first grade elementary certificate granted under the laws
3 of this state governing uniform examinations, or a nor-
4-5 mal school certificate, a high school certificate, a supervisors'
6 certificate, a short course certificate or a special certificate granted
7 in accordance with the provisions of this act, and has permitted

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8 the same to lapse, such person may apply to the state superintend-
9-ent of free schools for re-instatement of said certificate.

10 The applicant shall furnish with said application a statement
11 signed by the county superintendent of schools of the county in
12 which he resides to the effect that the applicant is a person of
13 good moral character, is apparently in good health, is a suitable
14 person to be intrusted with the care and education of children
15 and bears the reputation of having been a successful teacher.
16 The applicant shall also furnish such further evidence of his
17 personal character, qualifications and fitness as the state super-
18 intended of free schools may require. If, in the opinion of the
19 state superintendent of free schools, such applicant is a suitable
20 person to be intrusted with the care and education of children
21 and has been successful in the work of teaching, such certificate
22 shall be re-instated in such manner as to replace said applicant
23 in the relative position he held as to certificate rights on the
24 first day of July following the close of the last term of school
25 taught on such certificate.

26 In any case where any person has held a second grade elemen-
27 tary teachers' certificate and has taught on a second grade cer-
28 tificate or a certificate of higher grade for not less than five
29 years, the state superintendent of free schools may renew the same
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30 under such rules and regulations as may be prescribed by the
31 state board of education.

32 In any case where any person has held a short course certifi-
33 cate, which has been once renewed, and has taught or has been
34 otherwise actively engaged in school work for two years during
35 the period of such renewal, such certificate shall be renewable
36 for a five year period in the same manner as is provided for

37 the first renewal of certificates under the provisions of section
38 one hundred and eleven of chapter two of the acts of the legis-
39 lature of one thousand nine hundred and nineteen, and there-
40 after such person shall be entitled a second renewal and a life
41 certificate as provided by said section one hundred and eleven.

42 The state superintendent of free schools, with the approval
43 of the state board of education, may prescribe rules and regu-
44 lations for the granting of emergency certificates. Such cer-
45 tificates shall be valid only in the county designated on the face
46 of the certificate and shall expire on the thirtieth day of June
47 following their issue.

House Bill No. 242

(BY MR. TAYLOR.)

(Introduced January 20, 1921; referred to the Committee on the
Judiciary.)

House Bill No. 242

A BILL to amend section two of chapter eight of the code of West
Virginia, relating to the mileage and per diem of presidential
electors.

Be it enacted by the Legislature of West Virginia:

That section two of chapter eight of the code of West Virginia
be amended and re-enacted, so as to read as follows:

Mileage and Per Diem.

Section 2. Every elector of president and vice-president of the
2 United States shall be entitled to four dollars per day for each
3 day necessarily spent in the discharge of his duties as specified
4 in section one of this chapter and ten cents per mile for each mile
5 necessarily traveled by the most direct route in going to and re-
6 turning from the state capitol, to be paid out of the treasury of
7 the state.

House Bill No. 287

(By MR. TERRILL)

[Introduced January 21, 1921; referred to the Committee on Taxation and Finance.]

House Bill No. 287

A BILL to establish a high school in the county of Wayne, state of West Virginia, and to provide for a special levy and a board of trustees for the same.

Be it enacted by the Legislature of West Virginia:

Section 1. There shall be established a county high school in the county of Wayne, state of West Virginia, to be designated and known as the Wayne county high school.

Sec. 2. Said Wayne county high school shall be located in or near the town of Wayne.

Sec. 3. The board of trustees hereinafter created shall select a suitable location for said proposed high school and shall provide for not less than two nor more than three acres of land.

Sec. 4. There shall be created a board of trustees of five members, one of which shall be the superintendent of schools of Wayne county, and he shall be the chairman of said board.

Sec. 5. The board of trustees created under this act shall be subject to the call of the chairman and shall receive three dollars per day for their services while in the performance of their duty.

Sec. 6. The said board of school trustees shall have power to
4 [H. B. No. 287
2 make contracts, may sue and be sued the same as any board of
3 trustees under our general school laws.

Sec. 7. To provide funds to purchase ground and erect suitable building for said Wayne county high school. The county of Wayne shall lay a special levy of sixteen cents on the one hundred dollars on all taxable property both personal and real in county of Wayne for the years of one thousand nine hundred and twenty-one and one thousand nine hundred and twenty-two.

Sec. 8. The funds arising and created by and from the special levy as provided for in section seven of this act shall be collected by the sheriff of Wayne county the same as any other taxes, and when so collected he shall deposit said fund in some

5 bank in Wayne county to the credit of the board of trustees of
6 the Wayne county high school, which shall be known as the Wayne
7 county high school fund.

Sec. 9. The money as provided for in section eight of this act
2 shall be subject to and paid out on orders approved by a ma-
3 jority of said board of trustees signed by the chairman and secre-
4 tary.

Sec. 10. The fund created by this act shall not be used for
2 any other purpose whatever other than provided for in this act,
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3 namely, to buy ground, erect suitable building and to pay the
4 members of the board of trustees and secretary to the board while
5 in performance of their duty.

Sec. 11. The board of trustees created and provided for in
2 this act shall have full power to act until the next general elec-
3 tion when their successors shall be elected by popular vote.

Sec. 12. As soon thereafter as practicable the board of trus-
2 tees provided for in this act when the funds derived from the
3 special levy as provided in this act shall have become available
4 shall proceed to carry out the provisions of this act.

Sec. 13. As soon as the Wayne county high school shall have
2 been completed and ready for use it shall be subject to and be
3 governed by the general school laws of West Virginia.

ENGROSSED

House Bill No. 303

(By MR. McCLINTIC, of Kanawha.)

A BILL to amend and re-enact chapter fifty-five of the acts of the legislature of West Virginia of one thousand nine hundred and seventeen, entitled "An act to amend and re-enact section four of chapter ninety-six, serial section number four thousand one hundred and sixty-three, of the code of West Virginia, of one thousand nine hundred and thirteen, fixing the rate of interest that may be charged for the loan or forbearance of money or other thing", being section four of chapter ninety-six, serial section number four thousand one hundred and sixty-three of the

code of West Virginia of one thousand nine hundred and thirteen, as amended and re-enacted by said chapter fifty-five of the said acts of one thousand nine hundred and seventeen, fixing the rate of interest that may be charged for the loan or forbearance of money, or other thing, and providing for a greater charge of not in excess of eight per centum per annum, if stipulated in writing by the parties, and a charge of one dollar for any loan or forbearance of money, or other thing, where the interest at any

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rate permitted would not amount to that sum, and repealing all acts or parts of acts coming within the purview hereof or inconsistent herewith.

Be it enacted by the Legislature of West Virginia:

That chapter fifty-five of the acts of the legislature of West Virginia of one thousand nine hundred and seventeen, entitled "An act to amend and re-enact section four of chapter ninety-six, serial section number four thousand one hundred and sixty-three, of the code of West Virginia, of one thousand nine hundred and thirteen, fixing the rate of interest that may be charged for the loan or forbearance of money or other thing", being section four of chapter ninety-six, serial section number four thousand one hundred and sixty-three, of the code of West Virginia, of one thousand nine hundred and thirteen, as amended and re-enacted by said chapter fifty-five of said acts of one thousand nine hundred and seventeen, be and the same is hereby amended and re-enacted so as to read as follows:

Sec. 4. Legal interest shall continue to be at the rate of six
2 dollars upon one hundred dollars for a year, and proportionably
3 for a greater or less sum, or for a longer or shorter time, and no
4 person upon any contract, except as hereinafter provided, shall
5 take for the loan or forbearance of money, or other thing, above
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6 the value of such rate; *provided*, that in all cases it shall be law-
7 ful for the parties to stipulate in writing for the payment of any
8 greater rate of interest not exceeding eight per centum per annum;
9 and *provided*, a charge of one dollar may be made for any loan or
10 forbearance of money, or other thing, where the interest at six
11 per centum per annum, or any rate hereby permitted, would not
12 amount to that sum, and the same shall not be a usurious charge,
13 or rate of interest.

14 All acts, or parts of acts, coming within the purview hereof,

15 or inconsistent herewith, are hereby repealed; *provided*, that this
16 act shall not be construed to be inconsistent with or affect section
17 twenty-six of chapter fifty-four of the code of West Virginia.

House Bill No. 488

(BY MR. NICELY.)

[Introduced January 26, 1921; referred to the Committee on Immigration and Agriculture.]

Senate Bill No. 333

(BY MR. HARMAN.)

[Introduced January 26, 1921; referred to the Committee on Immigration and Agriculture.]

House Bill No. 488

A BILL to amend and re-enact section one hundred and thirty-nine of chapter forty-five of the code of West Virginia, being chapter two, of the act of one thousand nine hundred and nineteen, regular session relating to agricultural extension work at the West Virginia university.

Be it enacted by the Legislature of West Virginia:

Agricultural Extension Division.

Section 139. In order to promote the improvement and advancement of agriculture, domestic science, and rural life among the people of the several counties of the state of West Virginia, there is hereby created and established in the college of agriculture, at West Virginia university, an agricultural extension division to be co-ordinate with the resident instruction division and the agricultural experiment station. The work of the agricultural extension division of the college of agriculture shall be conducted under such rules, regulations and methods as may be approved by the state board of education, but not inconsistent with the provisions of this act, but every expenditure under this section shall be approved by the state board of control.

13 The commissioner of agriculture shall be *ex-officio* director of
14 this division or department and shall have full charge and control
15 of its management. He shall have the power to employ his as-
16 sistants, agents or other employees necessary to the proper per-
17 formance of the work of this division or department in carrying
18 out the duties herein prescribed and shall have power to define
19 their duties, to direct their work, discontinue their services and to
20 fix their compensation subject to the approval of the board of
21 control. He shall also have authority to do any and all other
22 things necessary to the successful carrying out of the full extent
23 of this act. (But the commissioner of agriculture shall not
24 receive any additional compensation for the performance of the
25 duties herein imposed.)

26 Said extension work shall consist of holding extension schools
27 in the various counties of the state, at which instruction shall be
28 given in soil fertility, horticulture, stock raising, crop production,
29 dairying and other branches of agriculture, domestic science and
30 kindred subjects; of conducting farmers' institutes; of furnish-
31 ing speakers and exhibits for special agricultural trains; of
32 giving instruction and demonstrations at agricultural fairs,
33 farmers' institutes, clubs, granges, or other organizations that
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34 may be useful in extending agricultural knowledge; of conduct-
35 ing, in co-operation with school officials and the United States
36 department of agriculture, boys' and girls' agricultural clubs
37 and state department of agriculture at Charleston; of appointing
38 county agricultural and home demonstration agents and super-
39 vising and assisting them in advancing the agricultural and home
40 interests of their respective counties or districts by encouraging
41 demonstrations in orcharding, soil improvement, crop production,
42 stock raising and other phases of agriculture, home economics
43 and kindred subjects, as provided for in section twenty-eight,
44 chapter thirty-nine of the code of West Virginia; by giving in-
45 struction by mail in agriculture, domestic science and kindred
46 subjects; of publishing bulletins, circulars and newspaper
47 articles; and of such other methods as may carry the benefits
48 of the work of the college of agriculture, the agricultural experi-
49 ment station, the United States department of agriculture and
50 the state department of agriculture at Charleston, to the people
51 of the several counties of the state, as provided for in the "Federal
52 Smith-Lever act" of May eighth, one thousand nine hundred and

53 fourteen, and accepted by the state of West Virginia in "senate
6 [H. B. No. 448
54 joint resolution number four," adopted February one; one thou-
55 sand nine hundred and fifteen; and all such itinerant educational
56 work in agriculture and home economics carried on under ap-
57 propriation by or to this state, shall be under the control and
58 supervision of said agricultural extension department.
59 All acts or resolutions inconsistent with this act are hereby re-
60 pealed.

House Bill No. 155

(By MR. JOHNSTON)

[Introduced January 19, 1921; referred to the Committee on
Mines and Mining.]

House Bill No. 155

A BILL requiring operators of mines to furnish sanitary wash-
rooms for miners.

Be it enacted by the Legislature of West Virginia:

Section 1. It shall be the duty of all individuals, firms, com-
2 panies, or corporations operating coal mines, or other mines within
3 this state, whether as owners or otherwise, to install, in the most
4 accessible and convenient place or places, at or near each mine-
5 opening where ten or more miners are regularly employed for the
6 exclusive use of such miners or others employed in or about such
7 mines, a sufficient and substantial wash-room, to be supplied with
8 good running water, both hot and cold, and equipped with enough
9 shower-baths and wash-stands or sinks, of good sanitary design, to
10 accommodate all the miners employed at each and every mine
11 without unnecessary waiting. *Provided, however,* that where two
12 mine openings are not more than one-half mile distant from each
13 other and are owned or controlled by one and the same operator,
14 whether individual or otherwise, one such wash-room so equipped,
15 may be installed so as to best accommodate the most miners em-
16 ployed at both of such adjacent mines.

Sec. 2. One hundred and twenty days from the time this act becomes a law shall be deemed sufficient time in which to comply with the provisions of this act, and any individual, firm, company, or corporation owning or controlling any such mine and operating same, who fails to comply with the provisions of section one of this act within one hundred and twenty days after this act becomes a law, shall be guilty of a misdemeanor, and shall be fined not less than fifty dollars, nor more than one hundred dollars for every month (thirty days) that any such mine remains unsupplied with the sanitary wash-room provided in section one of this act, such fine to be levied and collected as in other misdemeanor cases by the circuit court of the judicial district within which the violation occurs, upon complaint, in writing or otherwise, made to the prosecuting attorney of any county wherein any such violations occur, by five or more persons employed at any one of the mines the operators of which have failed to comply with the provisions of this act and in the county in which such complainants reside.

Sec. 3. All acts or parts of acts inconsistent with this act are hereby repealed.

House Bill No. 146

(BY MR. SOMERVILLE, by request)

[Introduced January 19, 1921; referred to the Committee on the Judiciary.]

House Bill No. 146

A BILL to amend and re-enact section ten of chapter one hundred and two, of the acts of the legislature of one thousand nine hundred and nineteen, regular session, relating to the issuance of licenses.

Be it enacted by the Legislature of West Virginia

That section ten of chapter one hundred and two of the acts of the legislature of one thousand nine hundred and nineteen, regular session, be amended and re-enacted so as to read as follows:

Section 10. The state licenses mentioned in section one shall be issued by the clerk of the county court upon proper applica-

tion filed with him, as provided in the next succeeding section.
4 *Provided, however,* that no licenses provided for in this chapter
5 shall be issued by said clerk within any municipality in this
6 state incorporated under chapter forty-seven of the code of West
7 Virginia without first obtaining from the common council of such
8 town or incorporation a permit for such license.

House Bill No. 522

[BY MR. McCLINTIC, OF KANAWHA]

[Introduced January 26, 1921. Referred to the Governor's Special Committee on Roads and Roads Committees of House and Senate.]

[BY SPECIAL COMMITTEE ON ROADS]

[Introduced January 26, 1921. Referred to the Committee on Roads and Navigation.]

House Bill No 522

A BILL authorizing the state of West Virginia to issue and sell not exceeding twenty million dollars of its bonds to raise money for road construction purposes under and by virtue of the Good Roads Amendment to the constitution adopted at the general election held November, 1920; and to provide for the levy and collection of an annual state tax sufficient to pay annually the interest on said bonds and the principal thereof within twenty years.

Be it enacted by the Legislature of West Virginia:

Section 1. That bonds of the state of West Virginia of the par
2 value of twenty million dollars (\$20,000,000) are hereby authorized to be issued and sold for the purpose of raising funds to
3 build, construct and maintain a system of state roads and highways in the state of West Virginia, as authorized by the Good
4 Roads Amendment to the constitution of said state adopted at the
5 general election held in November 1920.

Sec. 2. Said bonds shall be serial bonds, coupon and registered, in denominations of one hundred dollars, five hundred dol-

3 lars and one thousand dollars respectively, for the coupon bonds,
4 and one hundred dollars, five hundred dollars, one thousand dol-

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5 lars five thousand dollars and ten thousand dollars, respectively for
6 the registered bonds. They shall be issued at the direction of the
7 governor, upon the recommendation of the state road commission
8 of West Virginia, as follows—not exceeding seven million dollars
9 thereof (par value) in the calendar year 1921 and the residue there-
10 in the calendar year 1922.

10-a All of said bonds shall bear same date and be payable at the
11 office of the treasurer of the state of West Virginia twenty years
12 after their date, with the right reserved to the state of West Vir-
13 ginia to redeem said bonds, or any part thereof, at any interest pe-
14 riod prior to their maturity, at par and accrued interest, as here-
15 inafter provided.

16 Said bonds shall be interest bearing at the rate of not exceeding
17 six percentum per annum, and the said interest shall be payable
18 semi-annually on the first day of January and July of each year
19 to bearer, at the office of the treasurer of the state of West Vir-
20 ginia, at the capitol of said state, upon presentation and surrender
21 of the interest coupons representing interest then due, in the
22 case of the coupon bonds, and to the registered holder of said
23 bonds as appears from sixteen registry records, at the various
24 interest periods aforesaid, in the case of the registered bonds.

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25 Both the principal and interest of said bonds shall be payable
26 in gold coin of the United States of the present standard of
27 weight and fineness.

Sec. 3. Said bonds and coupons shall be engraved, and shall
2 be signed, on behalf of the state of West Virginia, by the treas-
3 urere thereof, under the seal of the state, and countersigned by
4 the auditor, with their fac-simile engraved signatures; and shall
5 be in the following form and to the following effect, as near as
6 may be, namely:

7 COUPON GOLD BOND
8 (or Registered Gold Bond,
9 as the case may be)
10 of the

11 STATE OF WEST VIRGINIA

12 Series of 1921

Number

13 The state of West Virginia, under and by virtue of authority
14 of an act of its legislature passed at the regular session of 1921,
15 on the day of, 1921, and approved by the Gover-
16 nor on the day of, 1921, reference to which is
17 hereby made as fully and at length as if set forth herein, ac-
18 knowledges itself to be indebted to, and hereby promises to pay

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19 to the bearer hereof (in the case of a coupon bond) or to.....
20 (the owner of record, in the case of registered bonds) twenty
21 years after the date of this bond, to-wit, on the day of
22, 1941, in gold coin of the United States at the present
23 standard of weight and fineness, at the office of the treasurer
24 of the state of West Virginia, at the capitol of said state, the
25 sum of dollars, with interest thereon at per
26 centum per annum from date, payable semi-annually in gold
27 coin of the United States, at the treasurer's office aforesaid, on
28 the first day of January and first day of July of each year, ac-
29 cording to the tenor of the annexed coupons, bearing the en-
30 graved fac-simile of the treasurer of the state of West Virginia,
31 and countersigned by the auditor under his engraved fac-simile
32 signature.

33 To secure the payment of this bond, principal sum and in-
34 terest, when other funds and revenues are not available for that
35 purpose, it is agreed that the board of public works of the
36 state of West Virginia shall annually cause to be levied and col-
37 lected an annual state tax on all property in the state, until
38 said bond is fully paid, sufficient to pay the annual interest on said
39 bonds and the principal sum thereof within twenty years from
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40 the date hereof.

41 This bond is hereby made exempt from any taxation by the
42 state of West Virginia, or by any county, district, or municipal
43 corporation thereof.

44 In testimony whereof, witness the signature of W. S. Johnson,
45 treasurer of state of West Virginia, and the counter signature
46 of John C. Bond, auditor of said state, hereto affixed according
47 to law, dated the day of, one thousand nine
48 hundred and, and the seal of the state of West
49 Virginia.

50

.....(SEAL)

51 *Treasurer of the State of West Virginia.*

52

53 *Auditor of the State of West Virginia.*

Sec. 4. The form of coupons shall be substantially as follows, to-wit:

3 STATE OF WEST VIRGINIA.

4 Bond No. Coupon No.

5 \$.

6 On the first day of, 19...., the state of West Virginia will pay to bearer, in gold coin of the United States of

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8 the present standard of weight and fineness, at the office of the
9 treasurer of the state, the sum of Dollars, same
10 being the semi-annual on Bond No.

11

12 Treasurer of the State of West Virginia.

13 Countersigned:

14

15 Auditor of the State of West Virginia.

16 The signatures of the treasurer and auditor to said coupons
17 shall be by their engraved fac-simile signature, and each coupon
18 shall be impressed on the back with its number in order of maturity from number one consecutively.

Sec. 5. All coupons and registered bonds issued under this
2 act shall be separately listed by the auditor of the state in books
3 provided for the purpose, in each case giving the date, number,
4 character and amount of obligations issued, and, in case of registered bonds, the name of person, firm, or corporation to whom
5 issued.

Sec. 6. The treasurer and auditor are hereby authorized to
2 exchange the coupon bonds herein mentioned, or any part thereof,
3 into registered bonds in the denominations hereinbefore provided.
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4 vided, and to arrange for the transfer of registered bonds, and
5 to exchange registered bonds for coupon bonds in the denominations of said coupon bonds hereinbefore provided. No exchange
6 of coupon bonds for registered bonds, or vice versa, shall be made
7 on the record books so kept by the auditor, except at the semi-annual interest periods hereinbefore mentioned. And, in effect
8 the exchange of registered bonds for coupon bonds, all

11 interest coupons prior to the date of exchange, shall be cancelled,
12 cut off, or otherwise removed from said bonds before delivery
13 thereof, and said coupons so cancelled or removed shall be pre-
14 served and made a matter of record.

15 For every such bond so issued by the state in exchange, a fee
16 of fifty cents shall be charged by and paid over to the treasurer
17 of the State and deposited by him in the treasury to the credit
18 of the state road sinking fund hereinafter described; and bonds
19 so taken in exchange shall be cancelled by the treasurer and au-
20 ditor and carefully preserved by the treasurer in his office.

Sec. 7. A fund is hereby created, designated as the state roads
2 sinking fund. Into this fund shall be paid all moneys received
3 from the annual state tax, levy on the taxable property in the
4 state, from any and all appropriations made by the state from

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5 other sources for the purpose of paying the interest on said bonds
6 or of paying off and retiring same, from fines, forfeitures and
7 penalties, if any, made applicable by law for the payment of
8 said bonds or the interest thereon, from transfer fees as herein
9 provided, and from any source whatsoever, which is made liable
10 by law for the payment of the principal of said bonds or the
11 interest thereon.

12 All such funds shall be kept by the treasurer in a separate
13 account, under the designation aforesaid, and all moneys belong-
14 ing to said fund shall be deposited in the state treasury to the
15 credit thereof.

16 Said fund shall be applied by the treasurer of the state, first
17 to the payment of the semi-annual interest on said bonds as it
18 becomes due, as therein provided; second, to the redemption,
19 annually on some interest payment period, at par and accrued
20 interest, of so many of the bonds issued hereunder, as the funds
21 then on hand will suffice to retire. And the bonds, when so re-
22 deemed as aforesaid shall be cancelled by the treasurer and au-
23 ditor, and the same registered by the treasurer in a book kept
24 for the purpose, giving the number, date of issue, character,
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25 amount, and owner, if known at the time of such redemption and
26 cancellation.

27 All bonds, so to be redeemed shall be chosen by the treasurer
28 and auditor by lot, by their serial number and by such equitable

29 method as may be determined by them. And notice of the serial
30 number of the bonds so selected to be redeemed, shall be given
31 by publication in some newspaper published at the capitol of
32 the state, at least once every two weeks, beginning at least sixty
33 days prior to an interest due date. And interest from and after
34 the next succeeding interest due date shall cease upon the bonds
35 so designated to be paid.

Sec. 8. In order to provide the revenues necessary for the
2 payment of the principal and interest of said bonds, as herein-
3 before provided, the board of public works is authorized, em-
4 powered and directed to lay annually a tax upon all the real and
5 personal property subject to taxation within this state, sufficient
6 to pay the interest on said bonds accruing during the current year
7 and one-twentieth of the total issue (at par value) of said bonds,
8 for such number of years, not exceeding twenty, as may be neces-
9 sary to pay the interest thereon and to pay off the principal sum
10 of said bonds; and said taxes, when so collected, shall not be

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11 liable for or applicable to any other purpose:

12 *Provided, however,* if there be other funds in the state treas-
13 ury, or in the state road fund, in any fiscal year, not otherwise
14 appropriated, or if other sources of revenue be hereafter pro-
15 vided by law for the purpose, the board of public works is au-
16 thorized, empowered and directed to set apart, in any year
17 there be such funds, or other sources of revenue provided for such
18 purpose, a sum sufficient to pay the interest on said bonds ac-
19 cruing during the current year, and the residue toward the re-
20 demption of said bonds as herein provided.

21 The authority hereby vested in the board of public works
22 shall be in addition to the authority now vested in it by present
23 law.

Sec. 9. The treasurer of the state is empowered and directed,
2 upon warrant of the auditor, to pay the interest for the first
3 semi-annual interest period on the bonds issued hereunder, as
4 it shall become due and payable, out of any money in the treas-
5 ury of the state not otherwise appropriated; if there is not then
6 sufficient money in the state roads sinking funds for that pur-
7 pose, and all subsequent interest shall be paid by him in ac-

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8 cordance with the terms of this act, out of the state roads sink-
9 ing fund hereinbefore provided.

Sec. 10. The Governor shall sell the bonds herein mentioned
2 at such time or times, during the calendar years nineteen hundred
3 and twenty-one and nineteen hundred and twenty-two, as may be
4 necessary to provide ample funds for road construction
5 purposes, as herein provided upon recommendation of the State
6 Road Commission. All sales shall be at not less than par and
7 interest accrued since the last semi-annual dividend period. All
8 interest coupons becoming payable prior to said sale date shall
9 be cancelled, cut off or otherwise rendered ineffective before the
10 delivery of the bonds so sold.

Sec. 11. The plates from which the bonds authorized by this
2 act are printed shall be the property of the state of West Vir-
3 ginia.

Sec. 12. All necessary expenses incurred in the execution of
2 this act shall be paid out of any money in the treasury of the
3 state of West Virginia, not otherwise appropriated, on warrants
4 of the auditor of the state drawn on the state treasurer.

House Bill No. 404

(By MR. DAVIS, OF MONONGALIA.)

[Introduced January 25, 1921; referred to the Committee on Hu-
mane Institutions, and Public Buildings.]

House Bill No. 404

A BILL to amend and re-enact section one hundred and seventy-three
of chapter two of the acts of the legislature of West Virginia of
one thousand nine hundred and nineteen.

Be it enacted by the Legislature of West Virginia:

That section one hundred and seventy three of chapter two of the
acts of the legislature of West Virginia of one thousand nine hun-
dred and nineteen, be amended and re-enacted so as to read as follows:

Section 173. *Admission*—Girls eligible to be received into said
2 home are those who are from seven to eighteen years of age, and
3 who may be committed by any justice of the peace of this state, on
4 complaint and due proof made to him by the parent, guardian, or
5 next friend of such girl, that by reason of incorrigible or vicious

6 conduct, such girl has rendered her control beyond the power of
7 such parent, guardian or next friend, and made it manifestly best
8 that such girl should be placed in said home, or by any criminal,
9 circuit or intermediate court of this state. Girls may be commit-
10 ted for vagrancy up to eighteen years of age, or where parents,
11 guardians, or next friends agree and contract with the state board
12 of control for their support and maintenance, or girls up to
13 eighteen years of age, who may be found in houses of ill fame or
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14 assignation houses, upon conviction thereof before any justice of
15 the peace, police court of a town or city; or girls convicted by any
16 of the courts of this state of prostitution, felony or misdemeanor,
17 punishable by imprisonment, the judge in his discretion, instead
18 of confining such girl in the county jail or sending her to the
19 penitentiary, may transfer such girl so convicted to said home,
20 from any county of this state; *provided*, there is room for such
21 girl. And it shall be unlawful for said home to deny admission
22 of any girl on account of having a venereal disease. All such
23 girls, however, shall be kept separate from those girls not so dis-
24 eased, and shall be subject to such medical treatment and sanitary
25 regulations as shall be prescribed by the state health council, and
26 the state health council is hereby authorized and empowered to
27 adopt regulations concerning the medical treatment and sanitary
28 arrangement of all inmates and institutions provided for in this
29 act. Every girl committed to said home shall remain there until
30 she is twenty-one years of age, unless sooner discharged by the
31 state board of control; but in no case shall any venereally diseased
32 girl be discharged until she is pronounced cured by the medical
33 officer authorized by the state council of health to treat and diag-
34 nose venereal diseases in said home.

House Bill No. 216

(BY MR. AVIS, by request.)

[Introduced January 20, 1921; referred to the Committee on the
Judiciary.]

House Bill No. 216

A BILL fixing the salary of the sheriff, clerk of the county court,
clerk of the circuit court, county assessor and prosecuting attorney

of Logan county, West Virginia, and repealing all acts and parts of acts inconsistent herewith.

Be it enacted by the Legislature of West Virginia:

Section 1. The annual compensation or salary of the sheriff, clerk of the county court, clerk of the circuit court, county assessor and prosecuting attorney of Logan county, West Virginia, shall be as follows: Said sheriff shall receive five thousand dollars, the clerk of the county court four thousand dollars, the clerk of the circuit court four thousand dollars, the county assessor three thousand dollars, and the prosecuting attorney three thousand dollars annually.

Sec. 2. All acts and parts of acts inconsistent herewith are hereby repealed.

House Bill No. 286

(BY MR. DAVIS, of Taylor.)

[Introduced January 21, 1921; referred to the Committee on the Judiciary.]

A BILL to fix the salary of the prosecuting attorney of Taylor county.

Be it enacted by the Legislature of West Virginia:

Section 1. That the salary of the prosecuting attorney of Taylor county be and the same is hereby fixed at the sum of eighteen hundred dollars per annum.

ENGROSSED

House Bill No. 86

(BY MR. FLYNN.)

A BILL providing for the development and use of water power for the production and sale to the public of hydraulic power and hydro-electric energy; conferring rights of eminent domain therefor; regulating the construction and use of dams therefor making corporations engaged therein public service corporations, subject to the regulation of the public service commission; imposing a royalty on the energy produced by such power; pro-

viding for the taking over by the state of the properties and rights used therein and useful thereto and repealing chapter eleven of the acts of one thousand nine hundred and thirteen as amended and re-enacted by chapter seventeen of the acts of one thousand nine hundred and fifteen.

Be it enacted by the Legislature of West Virginia:

Section 1. This chapter shall be known as the "water power act."

In this act unless the context otherwise requires:

(a). "Commission" means the public service commission of West Virginia, or any other officer or body hereafter authorized or

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created by the legislature of West Virginia to exercise the powers or perform the duties now or hereafter conferred and imposed by a law upon said public service commission.

(b). "Municipality" means any incorporated city, town or village in this state.

(c). "Permit" means a grant of authority under this act to construct, maintain and operate a dam in or across navigable or non-navigable waters for the development of hydraulic power and hydro-electric energy for sale to the public, or a number of such dams included in a project or series of projects.

(d). "Project" means a unit of development of the water power of a stream or watershed, including one or more dams and a generating station.

(e). "Power site" means the lands, property and rights necessary, useful or convenient for the construction, maintenance and operation of a dam or project, including the lands, property and rights within or pertaining to the area likely or liable to be flooded or damaged.

(f). The words "and" and "or" are to be read interchangeably.

Sec. 2. All water streams within the state capable of development. H. B. No. 86]

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ing hydraulic, electrical or other energy or power shall be under the control and supervision of the state; *provided, however*, that nothing contained in this section shall deprive any riparian owner of any right or interfere with his exercise of the same.

Sec. 3. Any corporation heretofore or hereafter organized under the laws of this state and any corporation organized under

3 the laws of any state of the United States, and authorized to
4 transact business in this state, and which by its charter has the
5 right to manufacture, supply and sell to the public hydraulic,
6 electrical or other energy or power produced by water as a motive
7 force or produced by a plant or plants operated by steam or
8 other power, belonging to such corporation, and which has been
9-10 granted a permit by said public service commission to construct
11 any dam and impound the water streams mentioned in section
11-a two of this act for the purpose of producing hydraulic, electrical
11-b or other power or energy within this state, shall, in addition to
11-c the other powers conferred by law, have the following rights,
11-d power and authority:

12 To acquire by condemnation, within the limits only of the ter-
13 ritory designated by the public service commission, the lands,

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14 property and rights, whether theretofore appropriated or de-
15 voted, or sought to be appropriated or devoted, to public use or
16 not, necessary for the construction and operation of dams across
17 any of the streams of this state and works connected therewith or
18 useful thereto, either up or down stream therefrom, within said
19 limits; and to construct and operate at the site thereof or at
20 other points, up or down stream therefrom, within the said
21 limits, and across said stream, dams, together with all works
22 incident, necessary or related thereto, and in connection there-
23 with; to condemn, within said limits, lands, property and rights,
24 whether theretofore appropriated or devoted, or sought to be

5 appropriated or devoted, to public use or not, for the purpose of
26 impounding the waters of any water-course or water courses of
27 the state or of diverting the same provided compensation shall be
28 paid, as in this act provided, for any injury on account thereof,
29 or of raising higher such dams or of enlarging the works neces-
30 sary, incident or related thereto, either up or down stream there-
31 from, within said limits designated by the public service com-
32 mission, as may be required or deemed expedient by such cor-
33 porations in the manufacture and supply of electrical or other
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34 energy or power produced by water, steam or gas as a motive
35 force.

36 To acquire by condemnation, within the limits only of the
37 territory designated by the public service commission, all lands
38 or property or water or interests or rights or easements in lands

39 or waters, whether theretofore appropriated or devoted, or sought
40 to be appropriated or devoted, to public use or not, likely or liable
41 to be flooded or damaged by impounding or diverting the water
42 of any water-course or its tributaries in this state or necessary
43 for the construction or operation of dams or power houses or
44 works necessary, incident or related thereto, or likely or liable
45 to be flooded or damaged by the construction or operation or
46 enlargement of the dams or works incident, necessary or related
47 thereto, or necessary to be damaged or taken in the construction,
48 operation or use of canals, flumes, tunnels, pipe lines, tail races
49 or other water ways or works necessary, useful or convenient for
50 the conveyance or escape of the water used in the operation of
51 such works or power plants; but nothing herein shall be con-
52 strued to prevent free access to and from, and the riparian use
53 of, the water so impounded by the owners of the lands con-
54 tiguous to the lands acquired by condemnation for reservoir pur-

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55 poses under this section, provided that such access and use shall
55-a be under the supervision of the public service commission and
56 shall not impair nor interfere with the said water power develop-
57 ment.

58 To acquire by condemnation, the necessary land and other
59 property for substations and transmission line within the limits
60 only of the territory designated by the public service commis-
61 sion, but such corporations shall have no right to condemn a pri-
62 vate residence nor any outhouse, garden or orchard within the
63 curtilage of a private residence for a substation site.

64 In all cases just compensation shall be paid to the owner in the
65 manner provided by law for all property taken or damaged.

Sec. 4. Such corporations shall have the right and authority
2 to condemn and acquire thereby, within the limits only of the terri-
3 tory designated by the public service commission, any power
4 plants, dams, conduits, transmission lines, equipment and prop-
5 erty constructed or partly constructed for the production or dis-
6 tribution of hydraulic, electrical or other energy or power and also
7 any water works, water-mill, steam-mill, mill-dam, mill-race,
8 equipment and property, together with the franchises, rights and
9 powers, privileges and appurtenances thereunto belonging, when
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10 within the area likely or liable to be flooded, or necessary for their
11 dams, generating stations and other works.

Sec. 5. Such corporations shall have the right and authority to acquire by condemnation, within the limits only of the territory designated by the public service commission, the right to flood or otherwise use for their corporate purposes public roads, bridges, ferries and the approaches thereto. In the event that the amount of compensation allowed by commissioners or jury under the condemnation proceedings provided for in this section is unsatisfactory to such a corporation, then such corporation may elect to make a reasonable and proper re-location of such public roads, bridges, ferries and the approaches thereto, for which purpose such corporation shall have the right of condemnation for the use of the county court, and may construct new roads, bridges, ferries and the approaches thereto in compliance with any order or orders in relation to such re-location or construction which may be entered by the county court of the county, or other authority having control or supervision over such roads, bridges, ferries or approaches thereto, in which such public roads, bridges, ferries and the approaches thereto are located, with the right of appeal on the part of such corporation from any such

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order or orders of said county court to the circuit court of said county and with the right of appeal on the part of the county court or such corporation from the order of the circuit court, within thirty days from the date of entry of such order, to the supreme court of appeals of the state. When the construction of such road, bridge, ferry and the approaches thereto is completed and approved by the county court or other authority having control or supervision over same, the title and control of such relocated road, bridge, ferry and the approaches thereto shall immediately vest in such county court and the circuit court upon finding of the fact of such completion and vesting of title and control shall enter in the condemnation proceeding a final order vesting title and control of said original road, bridge, ferry and the approaches thereto in such corporation.

Such corporations shall have the right and authority to acquire by condemnation, within the limits only of the territory designated by the public service commission, private roads, bridges and ferries and the approaches thereto.

Sec. 6. Such corporations shall have the right and authority to acquire by condemnation, within the limits only of the terri-

3 tory designated by the public service commission, when necessary,
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4 any streets or alleys or portions thereof in incorporated cities and
5 towns, and other public property.

Sec. 7. Such corporations shall have the right and authority
2 to acquire by condemnation, and to flood, within the limits only
3 of the territory designated by the public service commission, the
4 lands embraced within public and private cemeteries; and the
5 right and authority to acquire by condemnation other lands for
6 the purpose of removing the bodies and monuments or other
7 structures from such public or private cemeteries to such other
8 lands. All the rights of the state of West Virginia in and to
9 lands in such cemeteries to be flooded shall pass to and vest in
10 such corporations, and title to the lands acquired for the removal
11 of said cemeteries, shall vest in the former owners of the ceme-
12 teries so condemned, or the holders of the legal title thereto.

13 Before such corporations shall flood cemeteries they shall re-
14 move the bodies, and monuments, or other structures to the lands
15 acquired for such purpose and re-inter bodies and re-set monu-
16 ments under the direction and to the satisfaction of the circuit
17 court. If the parties in interest fail to agree as to the location
18 and area of the additional lands to be acquired in which to
19 re-inter the bodies and on which to replace the monuments and

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20 other structures, the same shall be determined by the circuit
21 court in which such condemnation proceedings are pending.

Sec. 8. Such corporations shall have the right and authority
2 to acquire by condemnation, within the limits only of the territory
2-a designated by the public service commission, lands, easements,
3 ways, rights of way, and other property upon which to erect towers,
4 poles or wire lines for the transmission, supply and sale of electri-
5 cal or other energy or power produced by water as a motive force,
6 or by steam power or otherwise; *provided*, that except for the pur-
7 pose of crossing such corporations shall have no right without
8 consent to construct and operate towers, poles and wire lines
9 upon that part of the right of way of any steam or electrical
10 railway, pipe line, telephone or telegraph company, which is
11 necessary for the exercise of the corporate franchise of such com-
12 pany. Such corporations shall have the right to procure a right
13 of way for crossing over or under the right of way of any steam

14 or electrical or other railway, pipe line, telegraph or telephone
15 company or other power company, in the manner provided for
16 other companies in section eleven of chapter fifty-two of the code
17 of West Virginia; but no such crossing shall be constructed
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18 except in accordance with plans and specifications previously
19 approved by the public service commission.

Sec. 9. Such corporations shall have the right and authority
2 to acquire by agreement with the county court or by condemnation
4 public roads and bridges, but the plans and specifications for
5 such crossings shall first be approved by the public service com-
6 mission.

Sec. 10. Such corporations shall have the right and authority
2 to acquire by condemnation, within the limits only of the terri-
3 tory designated by the public service commission, lands, ways and
4 rights of way necessary for the purpose of constructing earth,
5 steam, electric and other roads and ways for the transportation
6 of material, equipment and supplies required or useful in the con-
7 struction, operation and maintenance of their dams, power houses,
8 substations, transmission lines, water ways and all other structures
9 and works provided for herein and works incidental and necessary
10 thereto; also to acquire by condemnation, within the limits only
11 of the territory designated by the public service commission,
12 the right to use any lands necessary for, or useful in, the process
13 of constructing, or repairing such dams, power houses, substa-
14 tions, waterways, transmission lines and all other structures and

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15 works provided for herein and works incidental and necessary
16 thereto. Such corporations shall also have the right by their
17 officers, agents or servants, to enter upon any convenient lands,
18 within the limits only of the territory designated by the public
19 service commission, for the purpose of obtaining therefrom wood,
20 stone, gravel, or earth, necessary to be taken and used in the
21 construction of their dams, power houses, sub-stations, transmis-
22 sion lines, waterways, structures or other works, or in repairing,
23 enlarging, or altering the same, and shall have the right to take
24 and use the same, subject to the same restrictions, limitations and
25 requirements placed upon companies incorporated for the pur-
26 pose of building a railroad as set forth in section fourteen of

27 chapter fifty-two of the code of West Virginia and in accordance
28 with the procedure provided in said section.

Sec. 11. Such corporations shall have the right and authority
2 to condemn, within the limits only of the territory designated by
3 the public service commission, any lands, structures or property
4 of any kind owned, used or held for religious, charitable or edu-
5 cational purposes when within the area liable or likely to be
6 flooded, or necessary for their dams, and generating stations and
7 other works.

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Sec. 12. Such corporations are hereby authorized to acquire
2 by condemnation, within the limits only of the territory designated
3 by the public service commission and when necessary, useful or
4 convenient for the construction, maintenance and operation of
5 dams, reservoirs, generating stations and water ways, the right to
6 flood the location of or to raise or re-locate any public utility
7 pipe, telephone, telegraph or power transmission line or any
8 steam, electrical or other public carrier railway, provided that
9 such flooding, raising and re-locating shall not destroy nor unreas-
10 onably interfere with the use or operation of such line or rail-
11 way, and provided further that in the case of raising or re-locat-
12 ing any portion of the main line of any such railway, the length
13 of main line of which in West Virginia exceeds fifty miles, the
14 gradient or curvature of the raised or re-located portion shall not
15 exceed the maximum gradient or curvature governing contempor-
16 aneous construction or grade and curvature revisions of such mail
17 line in the same region or the maximum gradient or curvature of
18 similar railways in similar regions. Such corporations shall
19 have the right to condemn any lands and other property nec-
20 essary for the purpose of raising or re-locating such line or rail-
21 way and to convey the same to the owners of such line or railway.

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Sec. 13. Such corporations shall have the right and authority
2 to remove any timber adjacent to their lands and rights-of-way
3 which may endanger by shading, falling or otherwise, any of
4 their works or transmission lines, when they shall have acquired
5 the right to do so, and for that purpose may acquire such timber by
6 condemnation.

Sec. 14. Proceedings for condemnation by such corporations
2 shall be governed by chapter forty-two of the code of West Vir-

3 ginia, and such corporations may as to all or any part of the real
4 estate sought to be taken for any of the purposes in this act au-
5 thorized, describe in its application an estate or interest therein
6 of a fee or less than a fee, and with respect to the same may pro-
7 ceed as in other cases: and upon payment therefor, such estate
8 and interest as is stated and described in the application shall vest
9 in the applicant; but when less than a fee is taken, in assessing
10 damages, the commissioners and jury shall take into consideration
11 the actual damage that is done or that may be done to the fee by
12 such taking and the use to be made by such corporation of the
13 property so taken. In proceedings to condemn cemeteries or to
14 take lands for the purpose of re-interring bodies as provided in
15 section seven hereof, notice shall be given also to abutting land
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16 owners. But in all proceedings in condemnation the public
17 service commission shall receive notice and be made a party there-
18 to; and no order shall become final in such proceeding until the
19 assent of the public service commission shall have been entered
20 of record therein.

Sec. 15. The public service commission shall include as one
2 of the terms of each permit granted hereunder that it is granted
3 by the state of West Virginia and accepted by such a corporation
4 upon the agreement that all the provisions, terms and conditions
5 set forth in this act, including payment of the royalty provided
6 for in section twenty-three, shall constitute and be a contract be-
7 tween such corporation and the state of West Virginia and that
8 any successor or assign of the rights of such corporation, whether
9 by voluntary transfer, judicial sale, foreclosure sale or otherwise,
10 shall be subject to and bound by all such provisions, terms and
11 conditions as though such successor or assign were the original
12 grantee of the permit hereunder. On receiving and accepting
13 such permit from the public service commission, such corporation,
14 its successors and assigns, shall have the power and authority to
15 exercise all the rights, powers, privileges and franchises conferred
16 by this act on such corporation. No corporation securing a per-
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17 mit under the provisions of this act shall transmit electrical en-
18 ergy or other power beyond the limits of the state of West Vir-
19 ginia without first having obtained from the public service com-
20 mission a special license or permit for that purpose. If it shall be

21 made known to the public service commission that any municipal-
22 ity, firm, corporation or citizen of the state of West Virginia is not
23 receiving preferential service of power, then it shall be the duty
24 of the public service commission to revoke any such permit to
25 transmit power without the limits of the state of West Virginia
26 until such time as citizens of this state are fully supplied with
27 power and receive preferential service thereof.

Sec. 16. Such corporations shall be public service corporations
2 and shall be subject to all the provisions contained in chapter nine
3 of the acts of one thousand nine hundred and thirteen and any
4 act amendatory thereof or supplementary thereto.

Sec. 17. No such corporations shall exercise any of the pow-
2-3 ers herein authorized to condemn property until they shall
4 have made application to the public service commission and se-
5 cured the permit provided for in section three of this act. In all
6 applications for a permit to construct only one dam, shall be set
7 forth in detail the location of the proposed dam, or other method
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8 of impounding water; the area and character of land that will
9 be flooded by the impounded water; the amount of water in gal-
10 lons that will be impounded; the character of the proposed dam;
11 the horse power that will be developed thereby; the approximate
12 area and amount of land the corporation proposes to acquire, and
13 such other information as the public service commission may re-
14 quire. With such application shall be filed general plans and
15 drawings of the proposed dam, and a statement of the character
16 of materials to be used therein. If application be made for a
17 permit to construct more than one dam, in such application shall
18 be set forth, as to one of the dams to be constructed, the mat-
19 ters hereinabove enumerated and as to the other dams to be con-
20 structed there shall be set forth such general information re-
21 lating thereto as may be required by the commission. Detailed
22 plans, specifications and drawings for each dam shall be filed
23 with and approved by the public service commission before the
24 work on such dam shall be commenced. The public service com-
25 mission shall employ expert engineers or other experts or persons
26 to examine and report upon such locations, plans, drawings and
27 specifications.

Sec. 18. The public service commission shall require or may
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2 authorize such changes in the location, plans, drawings or speci-
3 fications of any proposed dam as may be necessary for the pre-
4 tection of life and property or for the proper and practicable
5 conservation of the water power of the stream or watershed on
6 which said proposed dam is to be located and may refuse the
7 application for a permit for said dam; or to grant to such corpora-
8 tion a permit to exercise the powers named in its application or
9-10 specified in the permit.

11 No court shall enter any order allowing condemnation of prop-
12 erty by any such corporation, unless the petition avers, and the
13 averment be supported by competent proof, that the public
14 service commission has approved the location and general plans
15 and drawings of the proposed dam, and issued to such corpora-
16 tion, or its predecessor in interest, the permit as in this act
17 provided.

18 Before making application to the public service commission for
19 a permit, such corporations shall give notice thereof by publica-
20 tion once in each week for four successive weeks in all news-
21 papers of general circulation published in the county or counties
22 wherein the proposed dam or dams are to be located, if there be
23 such; if not, by publishing the same in all newspapers of general
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24 circulation in such county or counties, and in either case by writ-
25 ten or printed notices posted, at least four weeks prior to making
26 such application, at the front door of the court house of such coun-
27 ty or counties and at fifty places within the area likely or liable to
28 be flooded by the water to be impounded by such dam or dams.
29 The public service commission shall hear and consider any ob-
30 jections or remonstrances against the proposed undertaking.

31 Any corporation incorporated for any of the purposes named in
32 section three of this act, which had filed application for a permit,
33 and any corporation which had located a dam for such purposes
34 and had expended as much as fifty thousand dollars in the con-
35 struction thereof, on or before May twenty-second, one thousand
36 nine hundred and thirteen, shall have prior right of location and
37 appropriation at the site covered by plans submitted to the
38 public service commission by such corporation, but such priority
39 right of location and appropriation shall not extend beyond June
40 thirtieth, one thousand nine hundred and twenty-four unless such

41 corporation, on or before said date, shall have secured
42-43 a permit.

44 No priority of location and appropriation shall be recognized
45 by the public service commission in applications for permits

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46 hereafter filed under this act. In case there are two or more ap-
47 plicants for permits covering the same location, the commission
48 shall have power to refuse to grant permits to any or all such
49 applicants, or to grant a permit to such applicant as the com-
50 mission, in its discretion, may deem best.

51 It is hereby declared to be the policy of the state to encourage
52 water power development and the public service commission shall
53 aim to secure for a given stream or water shed the greatest proper
54 and practicable utilization of the water power of such stream or
55 watershed.

Sec. 19. Any corporation incorporated for any of the pur-
2 poses named in section three of this act and which shall have
3 in good faith located a dam for its purposes, together with the
4 probable contour lines of the water proposed to be impounded
5 thereby, and which shall have actually expended as much as fifty
6 thousand dollars in the construction of said dam on or before
7 May twenty-second, one thousand nine hundred and thirteen, shall,
8 as shall also its lessees, successors, receivers, trustees or as-
9 signs, have all the powers conferred by this act as to such dam
10 and the land and property within the limits of the territory
11 likely or liable to be flooded or damaged by reason of the con-
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12 struction or maintenance of such dam as located, and as to any
13 other property necessary or convenient in the construction of
14 said dam or other works authorized by this act, by filing the appli-
15 cation and obtaining the permit named in this act and upon ap-
16 proval and designation of territory by the public service commis-
17 sion; and such corporation shall be liable to any penalty pro-
18 vided by this act for failure to make such application and
19 obtain such permit before proceeding with the construction of
20 such dam; and said commission may require or authorize any
21 change in the plans, drawings, specifications and constructed
22 portions of such dam as shall be necessary for the protection of
23 life and property, as heretofore provided.

Sec. 20. The public service commission shall levy an

2 assessment on any corporation making application to said
3 commission for a permit to build any dam over ten
4 feet in height necessary for the production of hydraulic, elec-
5 trical or other energy or power to cover the cost of the employment
6 of expert engineers or other experts or persons, to pass upon the
7 plans and designs of dams, in such an amount as may be deemed
8 proper by the said commission and to be paid at such time as it
9 may demand, as a condition precedent to the consideration of any

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10 application for a permit. The commission shall levy an additional
11-14 assessment on each applicant, from time to time, sufficient to
15 pay the cost of a proper and sufficient inspection of said dams, by
16 qualified engineers and inspectors, and also the compensation of
17 accountants who may be employed by the commission in accordance
18 with the provisions of section thirty-four of this act.

Sec. 21. The public service commission shall make such
2 reasonable rules and regulations as it may deem neces-
4 sary to carry out the provisions of this act. The commission
4 shall have the power to examine any dam, whenever in its discre-
5 tion the public safety or welfare shall so require, and after hearing,
6 either on its own motion or on complaint, to make and serve an
7 order directing any person, corporation, officer or board construct-
8 ing, maintaining or using any dam situated on any of the public
9 or privately owned waters or lands of this state, to make such
10 dam safe within a reasonable time, and in such manner as shall be
11 specified in such order. The commission shall determine what
12 alterations, additions, or repairs are necessary to make the same
13 safe, and may cause any dam to be removed on failure of the
14 owners thereof to comply with the commission's orders. The com-
15 mission may, in case of emergency, without notice, cause to be
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16 drawn off, in whole or in part, the water impounded in any dam,
17 whether such dam be situated on publicly or privately owned
18 lands or waters of this state, whenever the commission shall deter-
19 mine that such action is necessary to prevent impending damages
20 to persons or property.

Sec. 22. The public service commission shall not grant or issue
2 a permit for the building or completing of any dam which is not
3 so designed as to satisfy the commission, after full investigation
4 and it finds and enters of record, that the proposed dam shall be safe

5 and secure beyond a reasonable doubt, and that the construction of
6 such dam will be economically advantageous to the people of this
6-a state..

7 Before granting any permit for the construction of a dam, the
8 public service commission shall make an investigation as to the
9 effect of such construction upon any city, town or village, and as to
10 the economic value and importance of all agricultural lands, forests,
11 coal, oil, gas, mineral deposits, and other natural resources, likely
12 or liable to be submerged, damaged, destroyed, rendered inaces-
13 sible, or more difficult of access, within or adjacent to the contour
14 of the area to be flooded by such dam. In no case shall the public
15 service commission grant such a permit where the economic value

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16 of the natural resources to be damaged or destroyed in the develop-
17 ment of the proposed power site, is greater than the economic value
18 of the power which might be made available by such development
19 and of the benefits generally which would accrue. In estimat-
20 ing and comparing such economic values, the commission shall
21 consider such public inconvenience as may result from the remov-
22 al and re-location of roads, bridges, railroads and other public
23 utilities, the flooding of suitable and desirable routes or locations
24 for roads, railroads, or other means of transportation, and other
25 changes to be made necessary by the development of such power
26 site. In passing upon any application for a permit the commis-
27 sion shall take into consideration any probable future developments
28 of power upon any stream or streams that may be named in such
29 application or affected by a permit granted in pursuance of such
30 application, and if the granting of any such permit would have the
31 effect to destroy or greatly impair the commercial value of any
32 stream or streams for water power developments, such permit shall
33 not be granted.

34 In considering an application for a permit or approval of gen-
35 eral plans and specifications to construct or complete any dam
36 the public service commission shall hold the safe-guarding of
36-a life and property of the first importance and shall take
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25

37 abundant precaution against loss or disaster which might result
38 from the failure of any such dam.

Sec. 23. In addition to the annual license tax on its charter,
2 as provided in chapter thirty-two of the code of West Virginia,

3 and all other taxes and assessments, every such corporation
4 shall pay an annual royalty to the state for the privilege of exer-
5 cising the rights, franchises and privileges granted under this
6 act, which annual royalty shall be one per cent of the gross reve-
7 nue derived from sales of all the hydraulic, electrical or other en-
8 ergy or power produced by such company by water impounded in
9-a at the place of production, which said rates shall be fixed by the
10 public service commission. Such royalty at one percentum of the
10-a gross revenue shall be and remain in force for a period of ten
10-b years from the date this act becomes effective. At the expiration
10-c of the said ten year period said rate of royalty shall be subject to
10-d re-adjustment by the public service commission after full hear-
10-e ing and determination of a fair and equitable royalty to be then
10-f established for a ten year period; and said rate or rates of roy-
10-g alty shall be subject to correction and adjustment by the
10-h public service commission every ten years thereafter.
11 Such royalty shall be ascertained by the state tax com-

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12 missioner under such rules and regulations as shall from time to
13 time be prescribed by him. For the purpose of ascertaining the
14 same, the president, secretary or treasurer or other managing offi-
15 cer of such corporation shall file with the state tax commissioner
16 within thirty days after the thirtieth day of June each year, a
17 written detailed report, under oath, showing such gross revenue
18 of such corporation for the year ending on the thirtieth day of
19 June preceding the filing of such report. The state tax commis-
20 sioner, or any person authorized by him, is authorized, for the
21 purpose of ascertaining such tax, to take any evidence and ex-
22 amine under oath, which he is hereby authorized to administer,
23 any officer or agent of such corporation or other person. If any
24 such corporation shall fail or refuse to file such report in the time
25 prescribed therefor, or to make such report as is required by this
26 act, the state tax commissioner shall ascertain from the best
27 sources obtainable, the amount of such royalty which such corp-
28 oration should pay. When the state tax commissioner has ascer-
29 tained the amount of such royalty that any corporation should
30 pay for any year, he shall notify the corporation of the amount
31 thereof by written notice deposited in the postoffice, addressed to
32 such corporation at its principal office or place of business. Such

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33 findings shall be final and conclusive, unless appealed from within
24 thirty days in the manner hereinafter provided.

Sec. 24. Any corporation feeling itself aggrieved by the find-
2 ing of the state tax commissioner as to the amount of such roy-
3 alty shall have the right within thirty days from the date of the
4 notice mailed to it, as provided in section twenty-three hereof, to
5 appeal therefrom to the board of public works, which appeal the
6 board shall promptly consider and determine. The board shall
7 fix the amount of such royalty as it shall deem just and according
8 to law; and from the order of such board fixing such royalty either
9 the corporation or the state tax commissioner may, within thirty
10 days from the entry of such order, appeal to the circuit court of
11 Kanawha county. On hearing in said circuit court the entire rec-
12 ord before the board of public works shall be admitted in evidence
13 and receive such weight as to said court may seem proper, pro-
14 vided, however, that other or new evidence or matters may be
15 presented in said court by either the corporation or the state tax
16 commissioner. After hearing in said circuit court said court shall
17 enter its final order fixing and determining the said royalty. From
18 the said order of said circuit court either party may appeal to the
19 supreme court of appeals of West Virginia within twenty days
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5 motive force, together with the transmission of the same for the pur-
6 pose of furnishing customers with light, heat, or power, or for
7 other purposes; and shall also include the furnishing or trans-
8 mission of water taken from such dams for power, manufacturing,
9 municipal, domestic, irrigation or other purposes.

Sec. 30. The charter or franchise of any corporation now
2 organized, or that shall be hereafter organized, to engage in or
3 carry on any business subject to the provisions of this act, shall
4 be renewable only upon such terms and conditions as shall then
5 be prescribed by law. Any balance of any assessment remaining
6 unexpended shall be returned to the corporation which paid such
7 assessment or its assignee.

Sec. 31. The commission shall have power, authority, and jur-
2 isdiction to investigate, ascertain, and determine all reasonable
3 methods of construction, equipment, maintenance, and operation
4 of any dam and improvement so as to conserve and protect all
5 public and private rights in any of the waters of the state, and
6 protect life, health, and property. The commission shall, at any
7 time, in the interest of public safety or public rights order and

8 require anything reasonably necessary therefor. No franchise or

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9 permit granted under this act shall limit the authority of the
10 commission to protect and conserve all public rights.

Sec. 32. All permits granted under the provisions of this act
2 shall be and continue in effect for a period of fifty years from and
3 after the date of filing written acceptance by the grantee of all
4 its terms, provisions and conditions in accordance with the terms
5 of this act. From and after the expiration of said term of fifty
6 years the grantee of such permit, its successors and assigns,
7 shall hold said property, rights and franchises acquired under
8 the authority of this act, under an indeterminate permit, which
9 shall continue until purchase by the state as hereinafter pro-
10 vided or until otherwise terminated by due process of law sub-
11 ject to all the provisions of the original permit and subject to the
12 further provision that the state of West Virginia may purchase
13 and take over all the property and rights of such company actually
14 used and useful for the convenience of the public at any time,
15 after having given said grantee, its successors or assigns, five
16 years' written notice of its intention to purchase and take over
17 said property. Such notice of intention to purchase and take
18 over the property and rights of the grantee of such permit, its
19 successors and assigns, shall be given only when authorized by
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20 the legislature of the State of West Virginia, and shall designate
21 the effective date upon which the state will take over such prop-
22 erty and rights. Before taking possession of said property and
23 rights the State of West Virginia shall pay to the owner thereof
24 the reasonable value of such property and rights taken over and
25 the reasonable damages, if any, to property of the holder of such
26 permit not taken as may be caused by the severance therefrom of
27 the property taken; and shall assume all contracts relating to elec-
28 tric energy or power entered into by the grantee, its successors and
29 assigns prior to the service of such written notice. The value
30 of such property and rights taken over and the amount of dam-
31 ages caused by such severance shall be determined by appraisal
32 in the manner specified in section thirty-five of this act. But in
33 the event of purchase by the state no value shall be granted for
34 any franchise acquired from the state of West Virginia under this
35 or any other law.

Sec. 32-a. All issues of capital stock, of bonds and other securi-

2 ties payable at periods of more than twelve months after the date
3 thereof and all mortgages, deeds of trust, and other liens made by
4 such public service corporation for the purpose of raising funds to
5 be used by the said corporation and invested in its plant and prop-

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6 erty, shall, as to the amount thereof, be subject to the approval of
7 the Public Service Commission, the method of marketing or the
8 kind of securities to be issued to be determined by such corpor-
9 ation.

Sec. 33. Any such corporation, and any other corporation or
2 municipality or person, utilizing or obtaining benefit from any in-
3 crease in flow above the natural flow of a stream or streams by
4 reason of the impounding of the water of any stream or streams by
5 a corporation mentioned in sections three or nineteen of this act
6 shall, whenever such utilization or benefit is for the production of
7 hydraulic, electrical or other energy or power, reimburse the own-
8 er of the reservoir for such part as may be equitable of the annual
9 carrying charges of such impounding. Such reimbursement shall
10 be made in such reasonable proportion and amounts, at such times
11 and under such conditions as the public service commission may
12 from time to time determine and order. But nothing contained in
13 this section shall be construed to require such owner to regulate
14 and maintain a flow or supply of water for the benefit of such
15 other corporation, municipality or person.

Sec. 34. Every such corporation shall install and maintain a
2 complete system of accounting to be prescribed for such corpora-
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3 tion by the commission, according to which all financial transac-
4 tions and receipts and expenditures of the corporation shall be kept
5 as may be required by the commission. The accounts and vouchers
6 for all receipts and disbursements may be examined and audited
7 by an expert accountant whenever the commission shall order, and
8 the reports of such accountants shall be filed and kept in the office
9 of the commission.

10 The commission shall as soon as practicable after the comple-
11 tion of the acquisition of a power site under a permit fix a valua-
12 tion of such power site, provided that such valuation shall be made
13 at any time after the issuance of a permit upon request of the
14 grantee thereof.

15 Such corporation shall file with the commission a report for

16 each calendar year, giving the names and addresses of all stock
17 holders of record, directors, officers, managers and superintendents,
18 and the salaries paid to each.

19 All expenses for organization and promotion, and engineering
20 and legal services and salaries shall be not more than is just,
21 reasonable and approved by the public service commission before
22 becoming effective. All discounts and charges by underwriters or
23 by financial agents for the marketing of bonds and other secur-

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23-a ties of said corporations, shall be not more than is just and reas-
23-b onable, and be approved by the public service commission before
23-c becoming effective.

24 All bonuses, by way of stock or other obligations, given to pro-
25 moters for services, or in payment for alleged water rights or loca-
26 tions of dam sites, having a purely speculative value and hereto-
27 fore issued, shall be surrendered and cancelled, and in lieu thereof,
28 the fair cash value of such services and rights shall be ascertained
29 by the commission, and paid by such corporation.

30 The compensation to be paid to the accountants appointed to
31 act in behalf of the commission in auditing the accounts of said
32 corporations shall be paid out of the fund provided for in section
33 twenty of this act.

Sec. 35. All permits, rights, franchises and privileges granted
2 by this act, or that may be granted under the provisions thereof,
3 are granted subject to the right of the state, at any time after
4 fifty years from the date of the permit, upon at least five years'
5 notice thereof, to acquire all the property of the grantee acquired,
6 constructed, or maintained and used and useful in carrying out
7 the purposes for which the permit, rights, franchises and privileges
8 were granted, at its fair value, to be determined by a board of
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9 appraisers, one appraiser to be selected by the public service com-
10 mission, one by the owner of the property, and in case of disagree-
11 ment the two thus selected shall select a third and the determina-
12 tion of the majority shall be considered the just compensation
13 therefor; but no allowance shall be made for unreasonable costs of
13 therefore; but no allowance shall be made for costs of financing,
14 or for promoters' profits over and above the amount originally
15 approved by the public service commission as provided in section
16 thirty-four of this act, or for the value of any permit, or of any

16-a franchise, right or privilege granted by the state or any political
16-b subdivision thereof.

17 From the decision of said appraisers fixing and determining
18 the fair value of said property of such corporation to be acquired by
19 the state and the severance damages as aforesaid, either the pub-
20 lic service commission or the corporation owning such property
21 may within ninety days after notice of such determination and
22 decision appeal therefrom to the circuit court of Kanawha county
23 and may appeal from the decision of said circuit court to the
24 supreme court of appeals of West Virginia within ninety days from
25 the time the decision of the circuit court is rendered. Such ap-
26 peals shall be by petition and shall be allowed as a matter of course
27 by said circuit and supreme courts.

28 The hearing before said circuit court shall be as a trial *de novo*;
29 provided, however, that the original record before the appraisers

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30 duly certified by them, or any two of them, shall be received in ev-
31 idence and used in connection with any additional evidence offered
32 by either party; and the appeal to the supreme court shall be upon
33 the record in the circuit court in the usual manner.

34 After hearing the circuit court shall fix and determine the fair
35 value of such property and enter its order and judgment accord-
36 ingly; in case of appeal to the supreme court of appeals, that court
37 shall enter such judgment or order as the circuit court should have
38 entered.

Sec. 36. The permit issued as in this act provided, shall run
2 to the applicant, its successors and assigns; but no voluntary
3 transfer of any permit, or of the rights thereunder granted, shall
4 be made without the written approval of the commission; and any
5 successor or assign of the rights of the grantee of a permit, whether
6 by voluntary transfer, judicial sale, foreclosure sale, or otherwise,
7 shall be subject to all the conditions of the permit under which
8 such rights are held to the same extent as though such successor
9 or assign were the original grantee of such permit; *provided*, that
10 a mortgage or trust deed or judicial sales made thereunder or
11 under tax sale shall not be deemed voluntary transfers within the
12 meaning of this act.

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Sec. 37. Nothing in this act shall be so construed as to exempt
2 or release any person, firm or corporation owning or operating any

3 dam and appurtenant works under the provisions thereof from
4 any common law or statutory liability for damages resulting from
5 or growing out of the construction, maintenance, or operation of
6 such dam, or works; or as in any manner affecting such liability
7 of any person, firm or corporation; or as in any manner creating
8 any liability on the part of the state for damages resulting from or
9 growing out of the construction, maintenance, or operation of any
10 such dam or works.

Sec. 38. Nothing in this act contained shall be construed so
2 as to prevent any municipality or any public service corporation
3 engaged in supplying water to any municipality from taking wa-
4 ter by purchase or condemnation proceedings for the purpose of
5 such municipality and the use of the inhabitants thereof from wa-
6 ters impounded by any dam constructed and maintained by any
7 public service corporation, under such regulations as the public
8 service commission may prescribe.

Sec. 39. If any improvement maintained under any permit
2 granted pursuant to the provisions of this act, shall be owned,
3 leased, trusted, possessed, or controlled by any device permanently,
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4 temporarily, directly, indirectly, tacitly, or in any manner what-
5 soever, so that the same form part of or in any way effect any
6 unlawful combination, or shall be in any wise controlled by any
7 combination in the form of an unlawful trust, or form the sub-
8 ject of any contract or conspiracy to limit the output of any hy-
9 draulic or hydro-electric power derived therefrom, or in any
10 manner or degree in restraint of trade in the genera-
11 tion, sale, or distribution of hydraulic or hydro-electric power
12 derived therefrom, the state may take possession by proceedings
13 instituted by the commission as in cases of receivership; and
14 in such proceedings the members of the commission shall be ap-
15 pointed to act as receivers during such period as the court may
16 determine.

Sec. 40. No permit granted under this act shall become
2 effective unless within ninety days after notice from the com-
3 mission that the same has been granted, the grantee shall file
4 with the commission a written acceptance thereof. The grantee
5 of such permit, as well as the corporations referred to in section
6 nineteen of this act, shall within two years after the approval by
7 the commission of the detailed plans, specifications and drawings

8 of a dam commence the construction thereof and shall there-
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9 after in good faith and with due diligence prosecute such con-
10 struction, and shall within such time (not less than five years)
11 as may be ordered by the commission, complete and put into
12 operation such dam and shall from time to time thereafter con-
13 struct such portion of the balance of the ultimate development
14 as the commission may direct, so as to supply adequately the
15 reasonable market demands, until such development shall have
16 been completed. The periods for commencement of construction
17 may be extended once, but not longer, than two additional
18 years and the period for the completion of construction carried
19 on in good faith and with reasonable diligence may be extended
20 from time to time by the commission when not incompatible with
21 the public interest. In case the grantee of a permit shall not
22 commence actual construction of a dam designated by the com-
23 mission, within the time fixed by the commission, or extended as
24 herein provided, then, after due notice given, the permit shall,
25 as to such dam, be terminated on written order of the commis-
26 sion. In case the construction of a dam has been begun but
27 not completed within the time prescribed by the commission as
28 extended, then the attorney general of this state, upon the re-
29 quest of the commission, shall institute proceedings in equity as

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30 hereinafter prescribed for the revocation of the right of the
31 grantee to proceed further under the said permit with respect to
32 such dam, and for such other equitable relief as the case may
33 demand.

Sec. 41. The attorney-general of this state shall, on request
2 of the commission, institute proceedings in equity in the circuit
3 court of Kanawha county for the purpose of revoking the right
4 of the grantee to proceed further as to any dam under a permit
5 on account of violation of the terms of the said permit with
6 respect to such dam, or for the purpose of remedying or correct-
7 ing by injunction, mandamus or other process any act of com-
8 mission or omission in violation of the provisions of this act or
9 of any lawful regulation or order promulgated hereunder. The
10 said court shall have jurisdiction over all of the above mentioned
11 proceedings and shall have power to issue and execute all necessary
12 process and to make and enforce all writs, orders and decrees to

13 compel compliance with the lawful orders and regulations of the
14 commission and to compel the performance of any condition
15 imposed under the provisions of this act. In the event a decree
16 is entered by the said court revoking the right of the grantee to
17 proceed further with respect to a dam, the court is empowered
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18 to sell at public sale to the highest responsible bidder the property
19 and rights of said grantee used or useful in connection with such
20 dam, to wind up the business of such grantee conducted in con-
21 nection with such dam, to distribute the proceeds to the parties
22 entitled to the same and to make and enforce such further orders
23 and decrees as equity and justice may require. At such sale
24 or sales the vendee shall succeed to the rights and privileges
25 belonging to the grantee with respect to such dam and shall
26 perform the duties of such grantee and assume all outstanding
27 obligations and liabilities of the grantee which the court may
28 deem equitable in the premises. At such sale or sales the state
29 of West Virginia may become a purchaser.

Sec. 42. Any company incorporated for any of the purposes
2 set forth in section three of this act and which has been author-
3 ized to do business in this state may, by its officers, servants or
4 agents, enter upon lands for the purpose of examining and testing
5 the same and surveying and laying out such as may seem fit
6 to any officer or agent authorized by it, such companies being
7 liable for actual damage done but no unnecessary damage shall
8 be done.

Sec. 43. Except as in this act otherwise expressly provided any

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2 corporation such as is mentioned in section three or section nine-
3 teen of this act, or any other party to the record, feeling ag-
4 grieved by any decision of the public service commission, or
5 tribunal in lieu thereof, granting or refusing any permit, approv-
6 ing or refusing or failing to designate territory, or to designate
7 sufficient territory, or fixing a valuation, or by any other, final
8 decision or order of said commission, may appeal therefrom,
9 within sixty days after such decision is made and entered, to the
10 circuit court of Kanawha county with trial *de novo* in said circuit
11 court and may appeal from the decision of said circuit court to
12 the supreme court of appeals of West Virginia within sixty
13 days from the time the decision of the circuit court is rendered.

14 Such appeals shall be by petition and shall be allowed as a matter
15 of course by said circuit and supreme courts, but the order of
16 the circuit court granting the appeal shall require bond to be
17 executed, payable to the State of West Virginia, before the clerk
18 of said court in the penalty of five hundred dollars, with security
19 therein, to be approved by such clerk, conditioned for the pay-
20 ment of costs in the circuit court, and also in the supreme court,
21 in case the decision appealed from shall not be reversed. In case
22 of reversal by the circuit court on appeal, that court shall enter
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23 such judgment or order as the public service commission should
24 have entered; in case of reversal by the supreme court of appeals,
25 that court shall enter such judgment or order as the circuit court
26 should have entered. For the purpose of such appeal to the circuit
27 court and the hearing thereof the original record before the
28 public service commission, or tribunal in lieu thereof, duly certi-
29 fied, shall be used in connection with any additional evidence
30 offered by any party in interest and the appeal to the supreme
31 court shall be upon the record in the circuit court in the usual
32 manner and all such appeals shall be decided without delay; and
33 mandamus shall lie to compel the public service commission, or
34 tribunal in lieu thereof, to act and render any decision, from
35 which an appeal lies, within a reasonable time and without un-
36 necessary delay.

Sec. 44. If any section, or part of a section of this act here-
2 after be held by any court to be unconstitutional, such decision
3 and holding shall in no wise affect or render void the remainder of
4 the act or of such section; and the right to alter, amend or re-
5 peal this act is hereby expressly reserved; but no such alteration,
6 amendment or repeal shall affect any permit heretofore issued
7 under the provisions of this act, or the provisions, terms and condi-

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8 tions of such permit, or the rights of the grantee of such permit,
9 its successors or assigns, thereunder.

Sec. 45. Chapter eleven of the acts of one thousand nine hund-
2 red and thirteen, as amended and re-enacted by chapter seventeen
3 of the acts of one thousand nine hundred and fifteen (being known
4 as the "Water Power Act") and all other acts and parts of acts
5 inconsistent with this act are hereby repealed.

House Bill No. 385

(Committee Substitute for House Bill No. 385)

(By the Committee on Education.)

AN ACT to amend and re-enact section four, of chapter two of the acts of the legislature of one thousand nine hundred and nineteen, regular session, relating to the state board of education.

Be it enacted by the Legislature of West Virginia:

That section four of chapter two of the acts of the legislature of one thousand nine hundred and nineteen, regular session, relating to the state board of education be, and the same is hereby amended and re-enacted to read as follows:

How Constituted—Vacancies—How Filled.

Section 4. There is hereby created a state board of education which shall be a corporation and as such may contract and be contracted with, plead and be impleaded, sue and be sued, and have and use a common seal.

Said board shall consist of seven members of whom one shall be the state superintendent of schools, *ex-officio*, and the other six members shall be appointed by the governor, as herein provided, from the two dominant political parties. On or before the first day of May, one thousand nine hundred and nineteen, the governor shall, by and with the consent of the senate, appoint six members of the board for the following terms, to commence on the first day of July next after their appointment: One for one year, one for two years, one for three years, one for four years, one for five years, and one for six years. Thereafter one member of the board shall be appointed by the governor on or before the first day of May in every year for a term of six years.

The members of the state board of education shall be citizens of the state, and not more than four appointive members shall be of the same political party. No appointee of the board shall serve on the board.

Vacancies on the board shall be filled by the governor for the unexpired term. Before exercising any authority or performing any duties as a member of the state board of education each member thereof shall qualify as such by taking and subscribing to the oath of office prescribed by section five, article four of the state constitution, the certificate whereof shall be filed with the records of the board. A suitable office or offices in the state department of education at Charleston shall be provided for the use of the state board of education.

House Bill No. 25

(House Bill No. 25—Mr. Knight.)

AN ACT to amend and re-enact section eleven of chapter two of the acts of the legislature of one thousand nine hundred and nineteen, regular session, relating to the adoption of text-books.

Be it enacted by the Legislature of West Virginia:

That section eleven of chapter two of the acts of the legislature of one thousand nine hundred and nineteen, regular session, relating to the adoption of text-books, be and the same is hereby amended and re-enacted to read as follows:

Shall Adopt Text-Books.

Section 11. The state board of education shall adopt text-books 2 for uniform and exclusive use in the public schools of the state, 3 except as hereinafter provided, such adoptions to be made subject to the following restrictions and provisions:

5 (a) By written request or otherwise the state board of education shall ask various publishers of text-books in the United States 6 to submit samples and prices of text-books on all subjects required to be taught in the schools of the state. All bids or proposals 7 shall be under seal, and each bidder shall deposit in the 8 state treasury such sum of money as said state board of education 9 shall designate, such deposit to be not less than one thousand 10 dollars nor more than three thousand dollars; and said deposit 11 shall be forfeited to the general school fund, if such bidder shall 12 fail or refuse to make and execute such contract and bond as 13 are herein required in case of the acceptance of all or a part of 14 his bid, and otherwise shall be returned to said bidders after 15 contracts have been made.

18 (b) All bids shall be opened by the state board of education 19 in executive session. After considering the subject matter, printing, binding, general suitability and prices of books submitted, 20 said board shall, on or before the first Tuesday in May, one 21 thousand nine hundred and twenty-two, and every fifth year 22 thereafter, adopt one book, or one series of books, and only one, 23 on each subject required to be taught in the elementary schools 24 for uniform and exclusive use in the free schools of this state, 25 except in classified high schools and in towns and cities which 26 have a population of thirty-five hundred or over. All bids submitted at such session shall be made a matter of public record 27

29 by showing the same by separate items on the record book of the
30 board. At any adoption the affirmative votes of five members of
31 the board shall be required to change any book or series of books;
32 *provided, however*, that not more than thirty per cent of the
33 subjects required by law to be taught in the elementary schools
34 shall be changed in any five-year adoption, unless further changes
35 be necessary to protect the state against unfair prices or discrimi-
36 nation by the publishers of the books in use. When selections
37 and adoptions of books have been properly made, it shall be the
38 duty of the state board of education to execute contracts therefor
39 with the publishers thereof for a period of five years, beginning
40 with July first following, each publisher being required to enter
41 into bond of not less than ten thousand dollars to be approved
42 by the state board of public works. Such contracts shall be pre-
43 pared by the attorney general in accordance with the terms and
44 provisions of this act, and shall be executed in duplicate, one
45 copy held by the contractors and one by the state superintendent
46 of schools. Should any successful bidder fail to contract, or, if
47 for any cause any book or books adopted cannot be secured, the
48 state board shall proceed at once to the selection and adoption of
49 other books in lieu thereof. The state of West Virginia shall not
50 be liable in any sum on account of any contract made in pursuance
51 of the provisions of this section. It is expressly *provided, how-*
52 *ever*, that nothing contained herein shall impair the contracts now
53 in effect between the state school book commission abolished by
54 section sixteen of this act and the publishers of uniform text-books
55 now adopted and in use in the public schools of the state.

56 (c) If any publisher or contractor furnish to this state any
57 book of like binding, material and workmanship at a higher price
58 than the price at which said publisher or contractor furnishes the
59 same book to any other state, county, city or other school unit in
60 the United States, like conditions prevailing, the state board of
61 education shall require such publisher or contractor to make a like
62 reduction of such price in this state, under penalty of cancel-
63 lation of contract for any such book.

64 (d) It shall be the duty of the state board of education to fix
65 prices at which the various books adopted shall be sold to patrons,
66 the excess of which above contract price shall represent the profit
67 to the retailer; but in no case shall such profit exceed twenty per
68 cent. of the contract price. The state superintendent of free

69 schools shall notify each county superintendent of the list of
70 books adopted and prices at which they are to be sold and any
71 person selling such books at a higher price than that fixed by
72 the state board of education shall be guilty of a misdemeanor, and
73 upon conviction thereof, shall be fined not less than ten dollars
74 nor more than fifty dollars. The books furnished during the con-
75 tract period shall be equal in all respects to the sample copies
76 furnished the said board; and it shall be the duty of the state
77 superintendent of free schools to carefully preserve in his office
78 as the standard of quality, sample copies of all books contracted
79 for.

80 (e) It shall be the duty of each contractor at his own expense
81 to place with responsible dealers, in no fewer than three magis-
82 terial districts in each county, at least two weeks before the be-
83 ginning of school in any district in the county where such books
84 are used, a sufficient number of books to supply the demand. He
85 shall also arrange for the exchange of books at such places, allow-
86 ing pupils or boards of education an exchange price as liberal as
87 granted on the same books to any city, county, or state in the
88 United States, like conditions prevailing. The exchange privilege
89 shall extend through one entire school year, and the dealer making
90 the exchange shall be allowed by the contractors ten per cent of
91 the cash proceeds of same. Nothing in this act is to be construed
92 as preventing the use of supplementary readers; *provided*, they do
93 not displace the adopted readers, nor the use of more advanced
94 books in such schools as may be ready for the same.

House Bill No. 23

(House Bill No. 23—Mr. Knight.)

AN ACT providing for the standardization of one-room rural schools
and consolidated schools, the same to be section fifty-eight-a of
chapter forty-five of the code of West Virginia, being chapter
two of the acts of nineteen hundred and nineteen, regular ses-
sion.

Be it enacted by the Legislature of West Virginia:

Section 58-a. Any one-room school or consolidated school whol-
ly without an independent district which meets the requirements as
hereinafter provided for shall be designated as standard school.

4 It shall be the duty of the state board of education to fix the
5 requirements for the standardization of one-room schools and
6 consolidated schools, and it shall be the duty of the state super-
7 intendent of schools to publish requirements, to which shall be
8 attached a copy of section fifty-eight-a of the school law, and
9 send them to the district boards of education, county superin-
10 tendents and other school officers.

11 It shall be the duty of the state superintendent of schools to
12 classify the schools which meet the requirements for standardiza-
13 tion.

14 Standard one-room schools shall be classified as first class and
15 second class. Standard consolidated schools shall be classified
16 as first class and second class.

17 The standard schools shall receive state aid as follows: first-
18 class one-room, one hundred and twenty dollars per year; second
19 class one-room, one hundred dollars per year; first class con-
20 solidated school, four dollars per pupil, to be paid on average daily
21 attendance, the total amount not to exceed eight hundred dollars;
22 second class consolidated school, three dollars per pupil, which
23 shall be based on average daily attendance, the total amount
24 not to exceed six hundred dollars. It is *provided further*, that
25 the state aid for the standard schools shall be paid out of the
26 general school fund to the funds of the district wherein the schools
27 are located; that the state superintendent of schools shall annu-
28 ally deposit with the treasurer of the district board of education
29 the amount provided for the benefit of each approved standard
30 school as herein provided.

House Bill No. 289

(Committee Substitute for House Bill No. 289.)

(By the Committee on Education.)

AN ACT to amend and re-enact section one hundred and twenty-nine of chapter two of the acts of one thousand nine hundred and nineteen, regular session, relating to the attendance of children over fourteen years of age and under sixteen years of age at part-time schools or classes and authorizing and requiring boards of education to establish and maintain part-time schools and classes and evening schools and classes.

Be it enacted by the Legislature of West Virginia:

That section one hundred and twenty-nine of chapter two of the acts of one thousand nine hundred and nineteen, regular session, relating to the attendance of children over fourteen years of age and under sixteen years of age at part-time schools or classes and authorizing and requiring boards of education to establish and maintain part-time schools and classes and evening schools and classes be amended and re-enacted so as to read as follows:

Section 129. Each minor over fourteen years of age and under sixteen years of age who is not in regular attendance upon a public, private or parochial school or who is regularly and lawfully employed in some occupation or service, unless such minor has completed eight years of elementary schooling, shall attend a part-time school or class in the district in which such minor resides or may be employed. Such attendance shall be for not less than four hours per week and not more than eight hours per week for each week which such school or class is in session until the total attendance amounts to at least one hundred and forty-four hours for the school year, except that the school authorities may, subject to the approval of the state superintendent of free school, permit any such minor to increase the number of hours per week of required attendance and decrease the number of weeks of required attendance. The attendance upon a part-time school or class shall be between the hours of eight o'clock forenoon and five o'clock afternoon. *Provided, however,* that such persons shall be exempt from the foregoing requirements for any of the causes enumerated from (a) to (i) inclusive in section one hundred and twenty-two of chapter two of the acts of one thousand nine hundred and nineteen, regular session.

The parent, guardian or other person having the custody or control of a minor who is required under the provisions of this section to attend a part-time school or class shall cause such minor to attend such school or class. A parent, guardian or other person who refuses or fails to comply with this provision of the law shall be subject to the penalties provided in section one hundred and twenty-two of this chapter.

Any person, firm or corporation employing a minor between the ages of fourteen and sixteen years shall permit the attendance of such minor upon a part-time school or class whenever such part-time school or class shall have been established in the district where

33 the minor resides or may be employed, and upon the termination
34 of employment of any such minor, the employer shall return with-
35 in five days the employment certificate of such minor by mail to
36 the school authorities and a person, firm or corporation em-
37 ploying a minor over fourteen years of age and less than sixteen
38 years of age contrary to the provisions of this section shall be
39 subject to the penalties provided in section one hundred and
40 twenty-six of this chapter. A person, firm or corporation which
41 has in its employ a minor who fails to attend a part-time school
42 or class as required herein, shall immediately discontinue the ser-
43 vices of such minor upon receiving from the school authorities
44 written notice of the failure of such minor to attend such part-time
45 school or class, and a person, firm or corporation violating this
46 provision of law shall be subject to a fine of twenty-five dollars
47 for each offense.

48 Boards of education of districts and independent districts are
49 hereby authorized to establish and maintain part-time and evening
50 schools and classes. The board of education in charge of the schools
51 of each city having a population of more than ten thousand ac-
52 cording to the United States census of one thousand nine hun-
53 dred and twenty shall, commencing with the school year begin-
54 ning the first day of July, one thousand nine hundred and
55 twenty-two, establish and maintain part-time schools or classes.
56 The board of education in charge of the school of any city, town or
57 sub-district in which there are fifty or more minors above the age
58 of fourteen years and under the age of sixteen years who are not in
59 regular attendance upon approved instruction shall, commence
60 with the school year beginning the first day of July, one thousand
61 nine hundred and twenty-three, establish and maintain part-time
62 schools or classes. Such schools or classes may be established in
63 public school buildings, in other buildings especially adapted for
64 their operation, in manufacturing or mercantile establishments
65 and in factories. Such schools or classes, wherever they are es-
66 tablished and maintained, shall be under the control and manage-
67 ment of the board of education and shall be a part of the public
68 school system of the city or district which maintains them.

69 Such part-time schools or classes shall be kept in session on the
70 regular school days and for as many hours each school year between
71 the hours of eight o'clock forenoon and five o'clock afternoon as
72 shall be necessary to provide the required instruction for such min-

73 ors who reside in the city, town or sub-district. The course of
74 study in such part-time schools or classes shall be approved by the
75 state board of education.

76 If the board of education of any district fails to comply with the
77 requirements of this section, the state superintendent of free
78 schools may at his discretion withhold all or a part of any state
79 school funds due such district in any year. The failure of any
80 officer to enforce the provisions of this section and section one
81 hundred and twenty-eight of chapter two of the acts of one thou-
82 sand nine hundred and nineteen, regular session, shall cause such
83 officer to be subject to the penalties prescribed in sections one hun-
84 dred and twenty-six and one hundred and twenty-five, respect-
85 ively, of said chapter. The requirements of this section and
86 the preceding section shall be enforced by the persons and in the
87 manner prescribed for the enforcement of the requirements of sec-
88 tions one hundred and twenty three to one hundred and twenty-
89 seven inclusive of chapter two of the acts of one thousand nine
90 hundred and nineteen, regular session.

91 All acts and parts of acts inconsistent herewith are hereby re-
92 pealed.

House Bill No. 145

(House Bill No. 145—Mr. Knight.)

AN ACT to amend and re-enact section thirty-one of chapter two of
the acts of the legislature of one thousand nine hundred and
nineteen, regular session, relating to the qualifications of county
superintendents of schools.

Be it enacted by the Legislature of West Virginia:

That section thirty-one of chapter two of the acts of the legis-
lature of one thousand nine hundred and nineteen, regular session,
relating to the qualifications of county superintendents of schools, be
and the same is hereby amended and re-enacted so as to read as
follows:

Election, Qualification, Oath, Bond.

Section 31. The county superintendents of schools elected in
2 the general election in November, one thousand nine hundred and
3 eighteen shall hold office for the full term of four years for which
4 they were elected, and until their successors are elected as herein
5 provided and are qualified according to law.

6 A county superintendent of free schools shall be elected in each
7 county by the voters thereof, at the general election held on the
8 Tuesday after the first Monday in November, one thousand nine
9 hundred and twenty-two, who shall be a resident of the county
10 in which he is elected and whose term of office shall commence on
11 the first day of July next after his election, and continue for four
12 years and until his successor is elected and qualified according
13 to law. The county superintendent of free schools shall im-
14 mediately upon receiving the certificate of election from the can-
15 vassing board, or the county court, forward a written notice there-
16 of to the state superintendent of free schools.

17 In case of a tie in the vote for the county superintendent of
18 free schools, the presidents of the various district boards of edu-
19 cation shall, at a meeting called for that purpose, at the court
20 house of the county, by the county superintendent of free schools,
21 not less than six days or more than twelve days after the result of
22 such election is ascertained, appoint one of the persons receiving
23 the highest number of votes for said office at the said election as
24 county superintendent of free schools, who shall give notice as
25 aforesaid to the state superintendent of his appointment. A notice
26 of such meeting shall be made out by the county superintendent
27 and served upon the president of each district board of educa-
28 tion at least three days before the day of meeting in the manner
29 provided by law for the service of other process.

30 Only such persons shall be eligible to hold the office of county
31 superintendent as shall, at the time of their election or appoint-
32 ment, possess at least one of the following qualifications:

33 (1) A life certificate with nine weeks training in school ad-
34 ministration and supervision.

35 (2) A supervisor's certificate.

36 (3) A diploma of graduation from a standard normal course,
37 or who in the judgment of the state board of education, have com-
38 pleted work equivalent thereto.

39 (4) A first grade elementary certificate or its equivalent issued
40 prior to the first day of July, one thousand nine hundred and
41 twenty-two, with ten years experience as a teacher and nine weeks
42 training in school administration and supervision. The work year
43 in this connection is to be construed as meaning any number of
44 months, not less than the minimum school term, taught in any
45 calendar year; *provided*, that service in the United States army

46 or navy in the world war shall be counted the same as teaching for
47 double the number of years or fraction of years so served.

48 Before assuming any of the duties of his office, or exercising
49 any authority whatsoever, every county superintendent of schools
50 shall qualify before the clerk of the county court, and he shall also
51 execute with said clerk a bond with approved security in the
52 penalty of one thousand dollars conditioned upon the faithful
53 performance of the duties of his office and upon the accounting
54 and paying over to the proper authorities of all money coming into
55 his hands. Said clerk shall, within five days after said qualifica-
56 tion and execution of bond, certify to the state superintendent of
57 schools the name of such county superintendent and the fact of his
58 qualifying and executing such bond.

59 Every county superintendent of schools shall devote his entire
60 time during his term of office to the performance of his duties as
61 superintendent.

House Bill No. 178

(House Bill No. 178—Mr. Wysong.)

AN ACT to provide for clerical assistance, and for traveling expenses
for county superintendents of free schools, the same to be sec-
tion thirty-four-a of chapter two of the acts of nineteen hun-
dred and nineteen, regular session.

Be it enacted by the Legislature of West Virginia:

Section 34-a. The county court of each county is hereby
2 authorized and directed to provide proper clerical assistance for
3 the office of the county superintendent of free schools and to
4 pay monthly out of the county fund the salary of the person
5 performing such service, which amount shall be at the rate of
6 three dollars per school; *provided, however*, that the amount so
7 paid said assistant shall not exceed twelve hundred dollars per
8 annum in any county; such clerical assistant shall be appointed by
9 the county superintendent of free schools. It is provided that the
10 county superintendent of free schools shall be reimbursed for his
11 necessary traveling expenses, said expenses to be paid out of the
12 county fund by the county court upon presentation of sworn
13 itemized monthly statements to said county court; *provided that*
14 said expenses shall not exceed three hundred dollars in any year.

House Bill No. 82

(House Bill No. 82—Mr. McPherson.)

AN ACT to amend and re-enact section seventy-six of chapter two of the acts of the legislature of one thousand nine hundred and nineteen, regular session, relating to the salaries of secretaries of district boards of education.

Be it enacted by the Legislature of West Virginia:

That section seventy-six of chapter two of the acts of the legislature of one thousand nine hundred and nineteen, regular session, relating to the salaries of secretaries of district boards of education, be and the same is hereby amended and re-enacted so as to read as follows:

Salaries of Secretaries.

Section 76. Secretaries of district boards of education shall 2 receive annually as compensation for their services the following 3 amounts: In districts having fewer than fifteen schools, they 4 shall receive forty dollars; in districts having as many as fifteen 5 but fewer than twenty-five schools, they shall receive seventy-five 6 dollars; in districts having as many as twenty-five schools but 7 fewer than fifty schools, they shall receive one hundred dollars; 8 and in districts having fifty schools or more they shall receive 9 one hundred and twenty-five dollars, and in addition two dollars 10 for each school over fifty. "Provided, that in any magisterial dis- 11 trict, which may have an assessed value of property therein, of 12 fifteen million dollars, or more, and in which there are more than 13 one hundred and twenty-four schools, the board of education of 14 such district can pay to the secretary thereof a compensation to be 15 fixed by it, not, however, to exceed the sum of fifteen hundred dol- 16 lars for each year, payable in monthly installments."

17 Such compensation shall be paid for in four equal installments 18 on the first day of October, January, April and on the twentieth 19 day of July, *provided*, that the last named installment shall not be 20 paid until all reports have been made and duties performed as 21 required by law for the preceding year.

House Bill No. 81

(Committee Substitute for House Bill No. 81.)

(By the Committee on Education.)

AN ACT to amend and re-enact section fifty-five of chapter two of the acts of the legislature of one thousand nine hundred and nineteen regular session, relating to teachers' salaries.

Be it enacted by the Legislature of West Virginia:

That section fifty-five of chapter two of the acts of the legislature of nineteen hundred and nineteen, regular session, relating to teachers' salaries be amended and re-enacted to read as follows:

Salaries for Teachers—Board Shall Fix Same.

Section 55. Boards of education shall have authority to fix 2 special schedules of salaries to be paid to superintendents, principals, supervisors, and all other employees who are not employed as 4 teachers; and, to fix the salaries of teachers.

5 Commencing with the school year, beginning the first day of 6 July one thousand nine hundred and twenty-one, boards of education shall fix the rates of salary to be paid teachers in accordance 8 with the following classifications and requirements;

9 (a) *Basic salaries* shall be the salaries fixed for teachers who 10 are teaching their first regular term of school. Such salaries shall 11 be fixed according to the following schedule:

12 (1) For teachers holding certificates of the rank of third grade 13 not less than fifty dollars a month.

14 (2) For teachers holding certificates of the rank of second 15 grade not less than sixty-five dollars a month.

16 (3) For teachers holding certificates of the rank of first grade, 17 secured by examination or on credentials not equivalent to a short 18 normal course of study not less than eighty-five dollars a month.

19 (4) For teachers who have completed the short normal course 20 or the normal training course in an approved high school at least 21 five dollars a month more than the rate fixed for teachers holding 22 certificates of the rank of first grade secured by examination.

23 (5) For teachers who have completed the diploma course of 24 study in a standard normal school, or who have had, in the opinion 25 of the state board of education, equivalent training at least 26 fifteen dollars a month more than the rate fixed for teachers holding 27 certificates of the rank of first grade secured by examination.

28 (6) For teachers who have completed a collegiate course of 29 study in an approved institution of collegiate rank, or who have

30 had, in the opinion of the state board of education equivalent train-
31 ing, at least twenty-five dollars a month more than the rate fixed
32 for teachers holding certificates of the rank of first grade secured
33 by examination.

34 (b) *Advanced salaries* shall be the salaries fixed for teachers
35 who have taught one or more regular terms of school. Such sal-
36 aries shall be fixed according to the following schedule:

37 (1) For teachers who have taught one regular term of school
38 and not more than five regular terms, the rate of salary shall be
39 the basic salary plus at least three dollars a month for the second
40 term; the basic salary plus at least five dollars a month for the third
41 term; and the basic salary plus at least seven dollars and fifty cents
42 for the fourth term; and the basic salary plus at least ten dollars
43 a month for the fifth term.

44 (2) Teachers who have taught five regular terms of school and
45 not more than ten regular terms, the rate of salary shall be at least
46 fifteen dollars more a month than the rate of the basic salary of
47 teachers holding similar credentials.

48 (3) For teachers who have taught ten regular terms of school
49 or more, the rate of salary shall be at least twenty dollars a month
50 more than the rate of the basic salary for teachers holding similar
51 credentials.

52 If a teacher who has taught one or more terms secures a diploma
53 in the normal training high school course, the short normal course,
54 the standard normal course, or in an approved collegiate course his
55 advanced salary shall be increased by at least as much as is allowed
56 for such preparation in each case in fixing basic salaries.

57 The lowest rate fixed by the foregoing requirements shall be con-
58 sidered as the minimum salary in each case or class in the distribu-
59 tion of supplemental state aid.

60 Basic salaries shall be uniform throughout the district for teach-
61 ers holding similar credentials; and, advanced salaries shall be uni-
62 form throughout the district for teachers in the same classifications
63 as to experience as determined by this act and holding similar cre-
64 dentials.

65 *Provided* that boards of education may fix a higher rate of sal-
66 ary than the rates provided herein for teachers who do six weeks'
67 approved work during the vacation period in an approved school or
68 secure coupons of credit or other marks of advancement that are,
69 in the opinion of the state board of education, equivalent to the

70 training received by such school attendance, and for first grade
71 teachers who teach one-room rural schools.

72 And, *provided, further*, that boards of education in fixing the sal-
73 aries of teachers in independent districts and in incorporated towns
74 and cities and in high schools and junior high schools shall deter-
75 mine the results of salaries to be paid such teachers without regard
76 to the limitations and regulations set out in the foregoing para-
77 graphs of this section.

78 In determining the number of regular terms of school a teacher
79 has taught, boards of education shall credit as regular teaching,
80 service in the United States army and navy in the world war, and
81 active work in educational positions other than teaching, but no
82 teacher shall be given credit for teaching more than one regular
83 term in any school year.

84 All acts and parts of acts inconsistent with the provisions of
85 this act are hereby repealed.

House Bill No. 149

(Committee Substitute for House Bill No. 149.)

(By the Committee on Education.)

AN ACT to amend and re-enact sections one hundred and four and
one hundred and eleven of chapter two of the acts of the legis-
lature, one thousand nine hundred and nineteen, regular ses-
sion, relating to teachers' elementary certificates.

Be it enacted by the Legislature of West Virginia:

That sections one hundred and four and one hundred and eleven
of chapter two of the acts of the legislature of one thousand nine
hundred and nineteen, regular session, be and the same are hereby
amended and re-enacted so as to read as follows:

Elementary Certificates.

Section 104. Subject to all conditions set forth in this sec-
tion, first grade elementary certificates valid for a period of
five years shall be issued to all applicants who are otherwise
qualified and who attain a general average of ninety per cent,
with no subject below seventy-five per cent; second grade ele-
mentary certificates valid for a period of three years, shall be
issued to applicants who are otherwise qualified and who attain
a general average of eighty per cent, with no subject below sixty-
eight per cent; and third grade elementary certificates valid for

10 one year shall be issued to applicants who are otherwise qualified
11 and who attain a general average of seventy per cent, with no
12 subject below sixty per cent; *provided*, that the third grade
13 certificate shall not be issued more than twice to the same person.

14 The subjects in which the applicants for said certificates
15 shall be examined, or otherwise qualified according to law, shall
16 be reading, spelling, writing, English grammar and language,
17 arithmetic, physiology and hygiene, United States and West
18 Virginia history, general and West Virginia geography, civil
19 government, theory and art of teaching, elementary agriculture,
20 and such other subjects as the state board of education shall
21 from time to time prescribe.

22 It is *provided, however*, that on and after the first day of
23 July, one thousand nine hundred and twenty-two, applicants
24 for the first grade elementary certificate shall, in addition to
25 the foregoing, be required to satisfy the following conditions
26 as to academic and professional attainments, that is to say:

27 (1) After the first day of July, one thousand nine hundred
28 and twenty-two, applicants for first grade certificates shall have
29 had at least one year of high school work and nine weeks study
30 of professional subjects.

31 (2) After the first day of July, one thousand nine hun-
32 dred and twenty-four, applicants for first grade certificates shall
33 have had at least two years of high school work and eighteen
34 weeks study of professional subjects.

35 (3) After the first day of July, one thousand nine hun-
36 dred and twenty-six, applicants for first grade certificates shall
37 have had at least three years high school work and twenty-
38 seven weeks of study of professional subjects.

39 The state superintendent of free schools shall, at the time
40 for holding regular examinations, hold examinations on sub-
41 jects included in the normal training high school course of study
42 and shall keep a record of the grades obtained in such examina-
43 tions in his office. Such grades shall be accepted in lieu of
44 grades obtained by school attendance in satisfaction of the re-
45 quirements of this section.

46 The state board of education may prescribe other equivalents
47 and substitutions which shall be accepted in satisfaction of the
48 foregoing requirements for high school and professional work.

49 The state superintendent of free schools shall have author-

ity to issue normal school certificates valid for five years to graduates in the standard normal course of any state normal school, or other school approved for the offering of this course, to graduates in the normal course of the Bluefield colored institute and of the West Virginia collegiate institute, and to persons who have completed a normal course of study in any school of another state, which in the judgment of the state board of education, is equivalent in all respects to the standard normal course of study in the state normal schools of this state.

The state superintendent of free schools shall have authority to issue a temporary second grade certificate to a graduate of a first class high school or of a school of equal grade who meets the general certificate requirements in the school law. He shall also have authority to issue a first grade temporary certificate to such person on the presentation by the applicant of evidence of having done satisfactory work in educational subjects in an approved school for not less than six weeks. An applicant for a temporary certificate shall present the recommendation of the principal or superintendent of the school from which such applicant graduated. All temporary certificates shall expire on the thirtieth day of June following the issuance thereof.

Any person who has held a temporary certificate on the conditions stated above may receive another temporary certificate by submitting to the state superintendent of free schools evidence of having done satisfactory work in educational subjects in an approved school for at least six weeks since the issuance of his last temporary certificate and of having met the other conditions set forth above.

Until the first day of July, one thousand nine hundred and twenty-two, first grade elementary certificates shall be valid in all the schools of the state, and thereafter they shall be valid in elementary schools and junior high schools. Second grade and third grade elementary certificates shall be valid in all the grades of the elementary schools, *provided*, that no person shall be employed as principal of any school of two or more rooms in the same building who does not hold a first grade certificate or its equivalent.

Renewal and Re-instatement of Certificates.

Sec. 111. All first grade certificates, normal school certifi-

2 cates, high school certificates, supervisors' certificates and special
3 certificates, issued after July first, one thousand nine hundred
4 and twenty-two, shall upon their expiration or within the year
5 immediately following, be renewable for five year periods; *pro-*
6 *vided*, that the holders thereof shall have been actively engaged
7 in educational work for not less than three years of each
8 five-year period, shall take six weeks training in an approved
9 normal school, or pass an examination on two reading circle books,
10 for the first renewal, and be recommended for such renewal by
11 the county superintendent of schools of the county where the
12 certificates was issued, or where the teacher holding such certifi-
13 cate has taught.

14 At the termination of the first renewal period of any first
15 grade certificate issued after one thousand nine hundred and
16 twenty-two, the holder thereof shall be granted a renewal for
17 a period of five years upon the condition that he has taught or
18 been otherwise engaged in school work for three years of the
19 five-year period, and is recommended for renewal by the county
20 superintendent of the county where he resides or has been
21 teaching.

22 At the end of the second renewal period, the holder of any
23 certificate of the first grade, issued after one thousand nine
24 hundred and twenty-two shall receive a similar certificate valid for
25 life, if he has taught or been otherwise actively engaged in school
26 work for three years of the preceding five-year period. Certificates
27 of the first grade which have been issued, or which shall be
28 issued prior to July first, one thousand nine hundred and twenty-
29 two, shall be renewable as follows:

30 First renewal on condition that the holder has taught or been
31 actively engaged in school work for three years during the pre-
32 ceding five year period and is recommended for such renewal
33 by the county superintendent where he resides or has been teach-
34 ing. At the end of the first renewal period it shall be renewed
35 on recommendation of the county superintendent and passing an
36 examination on two books of the reading circle course or six weeks
36-a training in an approved normal school.

37 At the end of the second renewal period the holder of any
38 certificate of the rank of first grade shall be issued a similar
39 certificate valid for life, if he has taught or been otherwise actively
40 engaged in school work for three years during the life of the

41 certificate, and is recommended for such renewal by the county
42 superintendent of his county.

43 In any case where any person has held a first grade ele-
44 mentary certificate granted under the laws of this state governing
45 uniform examinations or a normal school certificate, a high
46 school certificate, a supervisors' certificate, or a special certificate
47 granted in accordance with the provisions of this act, and has per-
48 mitted the same to lapse, such person may apply to the state
49 superintendent of free schools for re-instatement of said certifi-
50 cate.

51 The applicant shall furnish with said application a statement
52 signed by the county superintendent of schools of the county in
53 which he resides to the effect that the applicant is a person of
54 good moral character, is apparently in good health, is a suitable
55 person to be intrusted with the care and education of children
56 and bears the reputation of having been a successful teacher.
57 If in the opinion of the state superintendent of free schools,
58 such applicant is a suitable person to be intrusted with the
59 care and education of children and has been successful in the
60 work of teaching, such certificate shall be re-instated in such
61 manner as to replace said applicant in the relative position he
62 held as to certificate rights on the thirtieth day of June follow-
63 ing the close of the last term of school taught on such certificate.

64 In any case where any person has held a short course certificate
65 such certificate shall be renewable for three-year periods thereafter,
66 *provided* the holder shall have taught, or shall have been other-
67 wise actively engaged in school work for two years of the pre-
68 ceding three-year period.

69 All acts and parts of acts inconsistent with this act are hereby
70 repealed.

House Bill No. 29

(House Bill No. 29—Mr. Miller.)

AN ACT to amend and re-enact section fifty-seven of chapter two of
the acts of the legislature of one thousand nine hundred and
nineteen, regular session, relating to holidays.

Be it enacted by the Legislature of West Virginia:

That section fifty-seven of chapter two of the acts of the legislature of one thousand nine hundred and nineteen, regular session, relating to holidays, be and the same is hereby amended and re-enacted so as to read as follows:

Shall Appoint Teachers.

Section 57. The board of education shall, on or before the 2 first Monday in July in each year, if practicable, ap- 3 point the principals and teachers for all the schools in 4 the district and shall fix their salaries as provided by 5 section fifty-five of this act. All such appointments 6 shall be in writing according to the form of contract to be 7 furnished by the state superintendent of schools and all 8 such contracts, together with the certificates of the appointees, 9 shall be filed with the secretary of the board.

10 The board of education of any district or independent district 11 may suspend or dismiss any principal or teacher so appointed, for 12 immorality, incompetency, cruelty, insubordination, intemperance 13 or wilful neglect of duty, *provided* that the charges be stated in 14 writing and that the teacher be given an opportunity to be heard 15 by the board upon not less than ten days' notice, and, *provided* that 16 in all cases when the board is not unanimous in its decisions to 17 suspend or dismiss, the principal or teacher so suspended or dis- 18 missed shall have the right of appeal to the state superintendent 19 of schools. It is *provided, however*, that any teacher who enters 20 into a contract with a board of education to teach a public school 21 and who fails to complete the term of such contract, unless pre- 22 vented from doing so by personal illness or other just cause, or 23 unless released from such contract by said board, shall be dis- 24 qualified to teach in any other public school in the state during 25 the term of such contract.

26 If any school is closed by the proper authorities on account of 27 the prevalence of any contagious or infectious diseases, the time 28 during which such school is closed shall be counted as if taught 29 in determining whether a school has been maintained for the 30 minimum term, and the teacher of such school shall not be com- 31 pelled to make up such lost time provided he held himself in 32 readiness to teach subject to the order of the board.

33 In making contracts with teachers and other employees of the 34 board, it shall be understood that schools are not to be kept open

35 for instruction on any Saturday or on the following days which
36 are hereby named and designated as school holidays, namely:

37 The fourth of July, commonly called "Independence Day"; the
38 last Thursday of November, commonly called "Thanksgiving
39 Day"; the twenty-fifth day of December, commonly called "Christ-
40 mas Day;" any day on which a general election is held throughout
41 the state; and any day appointed and set apart by the president
42 or the governor as a day of special observance by the people of
43 the state.

44 The school month shall consist of twenty days on which school
45 is kept in session for the full number of hours prescribed by law,
46 but in any case where Thanksgiving Day, Christmas Day, or any
47 day on which a general election is held shall fall on a school day
48 and school is taught on the day preceding or following, such day
49 shall be counted the same as taught in the report of the teacher
50 for pay for the school month in which it occurs. But schools
51 shall be assembled for instruction on Washington's Birthday and
52 shall devote a portion of the day to exercises commemorating the
53 life and services of the "Father of Our Country". Schools may
54 also be assembled for instruction on such days as Arbor Day,
55 Labor Day, Memorial Day, the Birthday of Abraham Lincoln,
56 Armistice Day and other special days and devote a portion of the
57 day to appropriate ceremonies, but on such special days the
58 school must be kept open for the entire school day to entitle the
59 teacher to pay for that day.

House Bill No. 335

(House Bill No. 335—Mr. Taylor.)

AN ACT to provide a course of study in fire prevention, for use in
public, private and parochial schools of the state.

Be it enacted by the Legislature of West Virginia:

That a course of study be provided for the use of public, private
and parochial schools of the state, giving instruction in fire preven-
tion as follows:

Section 1. The state superintendent of schools is here-
2 by empowered and directed to provide a course of study in fire
3 prevention for use in the public, private and parochial schools
4 of this state, dealing with the protection of lives and property

5 against loss or damage as a result of preventable fires.

Sec. 2. It shall be the duty of the county superintendent,
2 board of education, directors, trustees or other committees or per-
3 sons having control of public, private and parochial schools in
4 each county, village, city or school district, to arrange for such
5 course of study in fire prevention and to compel its use in each
6 school under its or their control or direction.

House Bill No. 377.

(House Bill No. 377—Mr. McClintic, of Kanawha.)

AN ACT to amend and re-enact section forty-eight of chapter two of
the acts of the legislature of one thousand nine hundred and
nineteen, relating to sale or lease of school property.

Be it enacted by the Legislature of West Virginia:

That section forty-eight of chapter two of the acts of the legislature
of West Virginia, regular session one thousand nine hundred and
nineteen, be amended and re-enacted as follows:

School Property may be Sold.

Section 48. It shall be the duty of every district board of
2 education to ascertain, at the beginning of each school year, the
3 physical condition of all school buildings in its district and the
4 necessity of the same for school purposes and such buildings
5 as, in the judgment of the board, are properly located and are
6 suitable or can with reasonable expense be rendered suitable for
7 school purposes, shall if necessary for carrying on the schools,
8 be retained; all other buildings together with lands held in con-
9 nection therewith, shall with the consent of the county super-
10 intendent of schools be sold at public auction to the highest re-
11 sponsible bidder, by the board of education, on proper legal no-
12 tice and on such terms of sale as the board may order, and the
13 proceeds of such sale shall be placed to the credit of the build-
14 ing fund of the district; *provided*, that in rural districts the
15 the grantor of such lands, his heirs or assigns, shall have the right,
16 at such sale, to purchase said land, exclusive of mineral rights,
17 and buildings thereon, at the same price for which it was sold,
18 plus legal interest. Said board, with the consent of the county
19 superintendent and by the same method prescribed for the sale
20 of school buildings and lands, may also lease for oil or gas or

21 other minerals any lands or school sites owned in fee by it, the
22 rental or other proceeds of any such lease to be placed to the credit
23 of the new building fund of the district.

House Bill No. 71

(House Bill No. 71—Mr. Bender.)

AN ACT to amend and re-enact section seventy-nine of chapter two of the acts of one thousand nine hundred and nineteen, regular session relating to the establishing of joint district high schools.

Be it enacted by the Legislature of West Virginia:

That section seventy-nine of chapter two of the acts of the legislature of one thousand nine hundred and nineteen, regular session, relating to the establishment of joint district high schools, be and the same is hereby amended and re-enacted so as to read as follows:

Joint District High Schools.

Section 79. The boards of education of two or more contiguous districts, or contiguous districts and independent districts, in the same or adjoining counties may, if authorized so to do by a vote of the people of each of such districts, establish and maintain jointly a high school in any one of such contiguous districts. The building or buildings for such joint high school, if any are to be erected, and the site therefor, shall be owned jointly in proportion to the amount contributed by the districts so uniting. The boards of education of such districts shall submit the question to the voters of the respective districts at a general or special election in the manner required by section one hundred eighty-four of this act.

The boards of education of the districts proposing to unite shall meet and determine the location of the proposed school, the estimated amount to be contributed toward the establishment and yearly maintenance of said school by each district, the total cost thereof to be apportioned among the districts uniting on the basis of their respective valuations of taxable property, which agreement shall be reduced to writing and entered of record in the minute book of the respective boards, and the substance of which shall be made a part of the statement to the voters as hereinbefore provided for.

The control and management of said joint high school, after the same is established, is hereby vested in the boards of education of

24 the several districts so uniting to be exercised in joint session.
25 When the boards sitting in such joint session are of districts in the
26 same county the county superintendent of schools shall be *ex-officio*
27 a member and chairman thereof, and as such shall be entitled to
28 vote and participate in the control and management of said joint
29 high school. When said boards are of districts in adjoining coun-
30 ties, the county superintendents of such adjoining counties shall
31 be *ex-officio* members of said joint session with the rights and
32 privileges belonging to other members thereof; but a chairman
33 shall be elected by the members of the joint session from among
34 their number. There is hereby conferred upon each board of edu-
35 cation full authority for the establishment and maintenance of
36 such joint high school, the election to be held and the result to be
37 ascertained as provided in section one hundred eighty-four, of
38 chapter two, acts of one thousand nine hundred and nineteen, and
39 all of the provisions of said section, so far as the same is appli-
40 cable, are made applicable to the establishment and maintenance
41 of such joint high school, except that a majority of the voters of
42 each district shall be sufficient to authorize the establishment of
43 such high school.

44 Said boards of education, in joint session as herein provided,
45 may authorize the teaching of elementary pupils in such high
46 school building, upon such terms for the use of the building as
47 they may determine.

House Bill No. 20

(House Bill No. 20—Mr. Sarver.)

AN ACT to amend and re-enact section eighty-three of chapter two of
the acts of one thousand nine hundred and nineteen, regular ses-
sion relating to the erection of dormitories for high schools.

Be it enacted by the Legislature of West Virginia:

That section eighty-three of chapter two of the acts of the legisla-
ture of one thousand nine hundred and nineteen, regular session, re-
lating to the erection of dormitories for high schools, be amended and
re-enacted so as to read as follows:

District and County Boards May Erect Dormitories for High Schools.

Section 83. Any county high school board desiring to provide
2 a dormitory for the accommodation of pupils attending a high
3 school under their supervision and of persons employed to teach

4 therein, shall have authority, subject to the approval of the state
5 superintendent of schools, to lay a levy of not more than eight
6 cents on each one hundred dollars valuation of taxable property
7 in the county for the erection, purchase or lease of a building for
8 dormitory purposes and for the equipment of the same. Any
9 district board of education maintaining a high school and desiring
10 to provide a dormitory shall have authority, subject to the ap-
11 proval of the state superintendent of schools, to erect, purchase
12 or lease a building for dormitory purposes and to equip the same
13 out of the new building fund of the district. *Provided, further,*
14 that any county, district or districts may join with any indepen-
15 dent school district in erecting, purchasing or leasing any build-
16 ings or grounds for high school dormitory.

17 The buildings and grounds to be owned jointly in proportion to
18 the amounts contributed by the districts so uniting.

19 The boards proposing to unite, together with the county superin-
20 tendent, shall meet and determine the estimated amount to be con-
21 tributed toward the establishment and yearly maintenance of said
22 dormitory by each district, which agreement shall be reduced to
23 writing and entered of record in the minute books of the re-
24 spective boards, a copy of which shall be submitted to the state
25 board of education for their approval. If said state board of
26 education disapproves of said agreement there shall be nothing
27 further done with regard to such joint dormitory, until such time
28 as the boards proposing to unite and the state board of education
29 shall agree on the terms and conditions by which they may unite.

30 The control and management of said dormitory after the es-
31 tablishment of the same, is hereby vested in the boards of edu-
32 cation of the several districts so uniting, to be exercised in joint
33 session, the county superintendent of schools to be *ex-officio* a
34 member and chairman of said joint session, and as such entitled
35 to vote and participate in the control and management of said
36 dormitory, there is hereby conferred upon each board of educa-
37 tion all of the authority for the erection and maintenance of said
38 joint dormitory by levy, issue of bonds, or otherwise, that is con-
39 ferred upon a board for the establishment and maintenance of a
40 high school within its district.

41 Said county high school board or district board of education
42 shall place a reputable and responsible person or persons in charge
43 of such dormitory to conduct the same and furnish meals and

44 lodging to pupils and teachers resident therein and shall deter-
45 mine the rate that shall be charged pupils and teachers for such
46 accommodations. The person or persons in charge of such dormi-
47 tory shall be required to give bond in the sum of one thousand
48 dollars (\$1000.00) for the proper care and use of the dormitory
49 and its equipment and supplies.

House Bill No. 24

(House Bill No. 24—Mr. Knight.)

AN ACT to amend and re-enact section eighty of chapter two of the
acts of one thousand nine hundred and nineteen, regular session,
relating to normal training in high schools.

Be it enacted by the Legislature of West Virginia:

That section eighty of chapter two of the acts of one thousand nine
hundred and nineteen, regular session, be amended and re-enacted so
as to read as follows:

Normal Training in High Schools—State Aid.

Section 80. Whenever in the judgment of any county high school
2 board or of any county, district or independent district board of
3 education in whose district a high school is maintained, it is ad-
4 visable to provide for the better training of the teachers in the
5 elementary schools of its county or district, such county high school
6 board, district board of education or independent district board
7 of education shall have the authority to establish and maintain a
8 normal training department in connection with any high school
9 under its control, to provide necessary rooms, furniture, equipment
10 and supplies and to employ teachers therefor.

11 It shall be the duty of the state board of education to pre-
12 scribe a course of study for such normal training departments, to
13 determine the number and qualifications of teachers to be em-
14 ployed therein, and to establish such other regulations and require-
15 ments for their conduct as they may deem best; and when a normal
16 training department has been established in any high school in
17 accordance with the regulations and requirements of the state board
18 of education and has been approved by said board, such high
19 school shall be designated and known as a normal training high
20 school. The state board of education shall on or before the first
21 day of October annually, report the number and location of high
22 schools approved by it as normal training high schools, to the
23 state superintendent of schools. Normal training high schools so

24 approved shall be entitled to receive, in addition to the state aid
25 now provided by law for classified high schools, the sum of one
26 thousand dollars annually, the same to be paid out of the appro-
27 priation for classified high schools at the time and in the manner
28 prescribed by law for the payment of state aid to classified high
29 schools, and to be used for the maintenance of normal training
30 departments of such high schools and for no other purpose;
31 *provided, however*, that not more than twenty high schools in the
32 state shall receive aid as normal training schools at one time; and
33 *provided, further*, that such state aid shall not be given in support
34 of any such normal training department of any high school located
35 in any county in which a state normal school or other state school
36 maintaining such normal training course is located.

House Bill No. 22

(House Bill No. 22—Mr. Knight.)

AN ACT to provide for the acceptance of an act passed by the senate and house of representatives of the United States of America in congress assembled to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise; to provide for the appointment of a custodian of all moneys received by the state from appropriations made by the congress of the United States for the purpose stated; to provide for a state board to co-operate with the federal board for vocational education in carrying out the provisions of said act, and prescribe its powers and duties; to provide for a plan of co-operation between such state board and the state compensation commissioner and to make appropriations to provide for the vocational rehabilitation of persons disabled in industry or otherwise, the same to be sections one hundred and thirty-three-*a*, one hundred and thirty-three-*b*, one hundred and thirty-three-*c*, one hundred and thirty-three-*d*, one hundred and thirty-three-*e*, and one hundred and thirty-three-*f* of chapter two of the acts of nineteen hundred nineteen, regular session.

Be it enacted by the Legislature of West Virginia:

Section 133-*a*. The state of West Virginia does hereby, through its legislative authority, accept the provisions and benefits of the act of congress, entitled, "An act to provide for the promotion of vocational rehabilitation of persons disabled

5 in industry or otherwise, and their return to civil employment,"
6 approved June second, one thousand nine hundred and twenty,
7 and will observe and comply with all requirements of such act.

Sec. 133-b. The state treasurer is hereby designated and ap-
2 pointed custodian of all moneys received by the state from appro-
3 priations made by the congress of the United States for vocational
4 rehabilitation of persons disabled in industry or otherwise, and is
5 authorized to receive and provide for the proper custody of the
6 same and to make disbursements therefrom upon the order of the
7 state board of education approved by the state board of control.

Sec. 133-c. The state board of education is hereby designated
2 as a state board for the purpose of co-operating with the said fed-
3 eral board in carrying out the provisions and purposes of said fed-
4 eral act providing for the vocational rehabilitation of persons dis-
5 abled in industry or otherwise and is empowered and directed to
6 co-operate with said federal board in the administration of said
7 act of congress; to prescribe and provide such courses of voca-
8 tional training as may be necessary for the vocational rehabilita-
9 tion of persons disabled in industry or otherwise, and to provide
10 for the supervision of such training; to appoint such assistants
11 as may be necessary to administer this act and said act of con-
12 gress in this state; to fix the compensation of such assistants and
13 to direct the disbursement and administer the use of all funds
14 provided by the federal government or this state for vocational
15 rehabilitation of such persons.

Sec. 133-d. It shall be the duty of the state board of education
2 and the state compensation commissioner to formulate a plan of
3 co-operation in accordance with the provisions of this act and said
4 act of congress, such plan to become effective when approved by
5 the governor of the state.

Sec. 133-e. The state board of education is hereby authorized
2 and empowered to receive such gifts and donations, either from
3 public or private sources, as may be offered unconditionally or
4 under such conditions related to the vocational rehabilitation of
5 persons disabled in industry or otherwise as in the judgment of
6 the state board are proper and consistent with the provisions of
7 this act. All the moneys received as gifts or donations shall be
8 deposited in the state treasury and shall constitute a permanent
9 fund to be called the special fund for the vocational rehabilitation
10 of disabled persons, to be used by the said board to defray the ex-

11 penses of vocational rehabilitation in special cases, including the
12 payment of necessary expenses of persons undergoing training. A
13 full report of all gifts and donations offered and accepted, together
14 with the names of the donors and the respective amounts contrib-
15 uted by each and all disbursements therefrom shall be submitted
16 annually to the governor of the state by the said state board of
17 education.

Sec. 133-f. There shall be appropriated a sum of money avail-
2 able for each fiscal year not less than a maximum sum which may
3 be allotted to the state for the purposes set forth in said federal act.

House Bill No. 27

(House Bill No. 27—Mr. Hersman, of Roane.)

AN ACT to amend and re-enact section eight of chapter seventy-one
of the acts of one thousand nine hundred and seventeen, re-
lating to Spencer independent school district.

Be it enacted by the Legislature of West Virginia:

That section eight of chapter seventy-one of the acts of one thous-
and nine hundred and seventeen, relating to Spencer independent
School district be amended and re-enacted so as to read as follows:

Section 8. The board of education of Spencer independent
2 school district shall also meet at the times and perform the
3 duties required of boards of education, other than those for inde-
4 pendent school district, except as herein otherwise provided, for
5 the purpose of making, and shall make, estimates of the money
6 required to maintain the schools in said independent school dis-
7 trict for the ensuing year, both as to the teachers' and various
8 building funds, and of providing for a sinking fund to pay off
9 any bonded indebtedness; and said board of education shall deter-
10 mine the number of months of school to be taught in said district
11 for said year, both in the high and graded schools and any depart-
12 ment thereof, which shall not be fewer than eight months for any
13 one year; and shall levy upon the taxable property in said inde-
14 pendent school district a sufficient sum for said purposes, which,
15 however, shall not exceed seventy-five cents on each one hundred
16 dollars valuation of the taxable property therein for the teachers'
17 funds and forty cents for the building and building maintenance
18 funds and such rate as may be necessary to pay off said bonded in-

19 indebtedness within the time provided by the proceedings had and the
20 orders entered in respect to said bonded indebtedness and the
21 obligation in respect thereto given.

22 All acts and parts of acts inconsistent herewith are hereby re-
23 pealed.

House Bill No. 34

(House Bill No. 34—Mr. Heavenier.)

AN ACT to amend and re-enact sections fourteen, fifteen and twenty-
three of chapter seventeen of the acts of the legislature of the
state of West Virginia of one thousand nine hundred and five,
relating to the independent school district of Alderson, in the
counties of Greenbrier and Monroe.

Be it enacted by the Legislature of West Virginia:

That sections fourteen and fifteen of chapter seventeen of the acts
of the legislature of West Virginia, one thousand nine hundred and
five, be amended and re-enacted so as to read as follows:

Section 14. It shall be the duty of the board of education of
2 said independent school district of Alderson at a meeting held not
3 later than the second Monday in August next following their elec-
4 tion and qualification, and annually thereafter, to ascertain as
5 nearly as possible the amount of money, in addition to all available
6 funds, necessary to keep in operation or session the schools in
7 said district for at least eight months in the year and for the
8 purpose of raising the required or necessary amount the board shall
9 levy a tax upon the property and residents of the district, and
10 same shall be collected under the provisions of the general school
11 law of the state; *provided*, that the levy made or taxes to be raised
12 for both teachers' and maintenance building funds in said school
13 district shall not exceed the rate provided by the general school law
14 of the state except that the board may make a levy of as much as
15 fifty cents for elementary teachers' salaries.

Sec. 15. The board of education of the independent school dis-
2 trict of Alderson is hereby authorized and empowered, at any
3 time after this act takes effect or after their election and qualifica-
4 tion, to issue and sell the bonds of said district, and with the pro-
5 ceeds erect one or more public school buildings within and for the
6 use of said district; such bonds to bear interest at a rate not ex-
7 ceeding six per centum per annum, and to become payable in not

8 less than five nor more than thirty-four years from the date thereof.
9 No indebtedness under this act shall exceed, when added to the ex-
10 isting indebtedness of said district, five per centum of the value
11 of the taxable property in said district, such value to be ascertained
12 by the next preceding assessment made with reference to state and
13 county taxes; nor shall such bonds be issued without due pro-
14 visions for the assessment and collection of a direct annual tax suffi-
15 cient to pay annually the interest thereon and the principal thereof
16 at their maturity; nor at all unless all questions connected there-
17 with be submitted to the voters of the said district, and three-fifths
18 of all the votes cast at such election shall have been in favor of
19 the issuance of said bonds. When the board of said independent
20 district shall deem it expedient to exercise the power hereby con-
21 ferred, an order shall be made and placed upon the minutes at a
22 regular meeting specifying the purpose, amount and denomination
23 of the bonds proposed to be issued, the date of maturity and the
24 plan adopted to meet the payment of the principal and the accru-
25 ing interest. Such bonds shall be of the denomination of one hun-
26 dred dollars or a multiple thereof.

Sec. 23. All provisions of the general school law of the state,
2 and all laws and acts heretofore existing, which are in any man-
3 ner inconsistent with the provisions of this act, shall be void within
4 the district, otherwise the said general school law shall remain in
5 full force and effect in this district as elsewhere in the state.

6 All acts and parts of acts inconsistent with this act are hereby re-
7 pealed.

House Bill No. 50

(House Bill No. 50—Mr. Johnston.)

AN ACT creating the independent school district of Ridgeley, West
Virginia.

Be it enacted by the Legislature of West Virginia:

Section 1. That in the event of a majority of the votes cast at
2 an election to be held on the second Tuesday in May, one thousand
3 nine hundred and twenty-one, to be in favor thereof, the following
4 described territory in the county of Mineral, and in the district of
5 Frankfort, shall after the results of such election are ascertained
6 and declared to be the independent school district of Ridgeley,
7 to-wit:

8 All that portion of Mineral county lying north and east of said
9 line, beginning from a point on the Western Maryland railroad
10 on the West Virginia division known as the West End Knob Mount
11 yard, the same to leave the Potomac river on the west side of
12 Knobley mountain and pass by a direct line over Knobley moun-
13 tain to where the Maryland division crosses the Potomac known
14 as south side of Welton's tunnel, shall constitute and be known
15 as the "Independent school district of Ridgeley."

Sec. 2. The property, real and personal, within the Frankfort
2 district of Mineral county, of which the newly created district has
3 heretofore been a part, now vested in the board of education of
4 said district, shall become the property of the board of educa-
5 tion of said new district and the board of education for said new
6 district shall be governed by the same laws as boards of education
7 of districts under the general education laws of the state, except
8 only so far as otherwise provided by this act. The board of educa-
9 tion of said district shall consist of three commissioners, who shall
10 be elected by the qualified voters residing within said Ridgeley
11 district, at a special election to be held at the town of Ridgeley, in
12 Mineral county, on the fourth day of June, one thousand nine hun-
13 dred and twenty-one, which election shall be conducted by the
14 regular officers appointed for the holding of general elections in
15 said territory. One commissioner shall be elected for five years and
16 six months, or until his successor is elected, at the general elec-
17 tion in one thousand nine hundred and twenty-six, and qualifies;
18 one commissioner shall be elected to serve three years and six
19 months or until the general election in November, one thousand
20 nine hundred and twenty-four; when his successor shall be elected
21 and qualify; one commissioner shall be elected for one year and six
22 months or until the general election in November, one thousand
23 nine hundred and twenty-two, when his successor shall be elected
24 and qualify.

Sec. 3. Said commissioners shall constitute the board of edu-
2 cation for said district and shall be a corporation by the name of
3 the board of education of the independent school district of Ridge-
4 ley, West Virginia, and by that name sue and be sued, plead and
5 be impleaded, purchase, hold and grant so much estate, real and
6 personal, as may be necessary for the purpose of the educational
7 interests of said district ; may make by-laws and pass regula-
8 tions, not inconsistent with the laws of this state and do all things

9 necessary and proper to be done to advance the educational inter-
10 ests under the control of said board of education.

Sec. 4. There shall be elected in said district every two years
2 at the general election, one member of said board, who shall hold
3 his office for six years, commencing on the first day of July suc-
4 ceeding his election. The members of the said board shall con-
5 tinue therein until their successors shall be elected and qualified
6 as provided by this act. Any vacancy in said board shall be filled
7 by appointment of the board for the unexpired term, unless it be
8 for a period extending beyond the first day of July after the next
9 general election, in which event such appointment shall be until
10 the next general election, at which election a member shall be
11 elected to fill such vacancy, and the person so elected shall enter
12 upon the duties of his office on the first day of the month succeed-
13 ing his election. The provisions of the general school law in rela-
14 tion to trustees shall not apply to said district.

Sec. 5. The said board of education shall, at their first meet-
2 ing, or so soon thereafter as may be practicable, elect one of their
3 number to act as president and another to act as secretary to said
4 board, or may elect a secretary not a member of said board, who
5 shall perform all the duties which are to be performed by a presi-
6 dent and secretary as required by the general school law, which
7 may not be inconsistent with this act.

Sec. 6. The member of said board and the secretary thereof, in
2 case said secretary is selected from outside the board, shall receive
3 four dollars per day for each day actually employed in the line of
4 their official duties as said board.

Sec. 7. The board of education of the independent school dis-
2 trict of Ridgeley, shall have power to establish an adequate num-
3 ber of primary schools, and a central high school, by such name as
4 may be prescribed by said board, in which may be taught all the
5 branches usually taught in college, and shall have power to admit
6 to said school pupils not residents of said district, upon payment of
7 such tuition as they may prescribe.

Sec. 8. It shall be the duty of the board of education of said
2 district to determine, at their annual meeting, on the first Monday
3 in July, as near as practicable, the amount of money necessary to
4 be levied, in addition to all other available funds to carry on
5 schools within said district for not less than eight months during
6 the succeeding year, but said board may, if it deems advisable, to

7 extend the term to more than eight months, for which amount said
8 board shall levy a tax upon the property included in said district,
9 and collect the same; and a lien is hereby declared to exist on the
10 real estate taxable in said district, for all taxes levied thereon, and
11 the said board shall carry into effect the provisions of this act, in
12 the same manner as other tax is collected under the provisions of
13 the general school laws of this state. The said school district
14 shall not be entitled to receive its share of the state school fund for
15 any one year, until the board of education shall have first levied
16 the tax above provided.

Sec. 9. The taxes raised in said district for school and build-
2 ing purposes shall never exceed the rate prescribed in the law re-
3 lating to general free schools, except to pay bonded indebtedness,
4 they may lay a levy not to exceed forty cents on the one hundred
5 dollars for building fund, and the amount so levied and collected
6 as aforesaid, shall not be used for any other purpose.

Sec. 10. The board of education, shall appoint all teachers for
2 public schools of any grade within the district, and fix their salaries
3 at a meeting, held not later than the third Monday of August of
4 any year. The salaries fixed and the teachers employed by the
5 board of said district shall be recognized for such school year; but
6 no person shall be employed as a teacher of any grade without hav-
7 ing a satisfactory certificate obtained and issued as required by
8 law in the examination of teachers for the public schools of the
9 state. The teachers appointed shall be subject in all respects
10 to the rules and regulations adopted by the board of education,
11 and they may be removed by the board for incompetency, intem-
12 perance or gross immorality upon formal complaint fully support-
13 ed by proof. All appointments of teachers shall be in writing,
14 signed by the president and secretary of said board of education.

Sec. 11. The election provided for in section one of this act
2 shall be by ballot and those voting in favor of the establishment
3 of said independent school district, shall have printed or written
4 on their tickets, "For independent district," and those voting
5 against the establishment thereof, shall have written or printed on
6 their tickets, the words, "Against independent district." The elec-
7 tion shall be conducted and the results thereof ascertained and de-
8 clared by election of officers to be appointed by the county com-
9 missioners of Mineral county, and all provisions of the election
10 laws in this state shall be enforced and govern such election unless
11 otherwise provided.

Sec. 12. All acts and parts of acts inconsistent with this act
2 are hereby repealed.

House Bill No. 80

(House Bill No. 80—Mr. Hersman, of Calhoun.)

AN ACT to amend and re-enact sections three and four of chapter one hundred and eleven of the acts of the legislature of West Virginia, of one thousand nine hundred and fifteen, relating to establishing a high school in Calhoun county.

Be it enacted by the Legislature of West Virginia:

That sections three and four of chapter one hundred and eleven of the acts of the legislature of West Virginia, of one thousand nine hundred and fifteen be amended and re-enacted so as to read as follows:

Section 3. The county superintendent of schools shall be 2 *ex-officio* secretary of said board of directors, but he shall have no 3 vote as a member of said board of directors.

4 The said directors so elected shall assemble at the court house 5 of said county on the first Monday of July next after their election 6 and each give before the clerk of the county court of said county, 7 a bond with security to be approved by said clerk, in the penalty 8 of five hundred dollars, conditioned for the faithful performance 9 of his duties as a member of said board of directors, and shall take 10 the oath of office required of other county officers.

11 After said directors have given bond and taken the oath of office. 12 as aforesaid, they shall elect one of their number president and 13 two of them shall hold their office until the general election to 14 be held in one thousand nine hundred and eighteen, and three shall 15 hold their office until the general election to be held in one thousand 16 nine hundred and sixteen, and who of them shall hold the long 17 and who of them the short terms, they shall determine by lot at 18 their first meeting after taking their office, and each of them shall 19 hold his office until his term expires or until his successor is 20 elected from his said district and hold office for a term of four 21 years or until his successor is elected and qualified according to 22 law.

23 The members shall from time to time as they may see fit, elect 24 one of their number to act as president thereof, and the said 25 president, or a majority of said board, shall from time to time as

26 deemed proper by them call meetings of said board of directors.
27 Said board of directors as soon as may be after they have chosen
28 their president shall select and secure title for said county high
29 school, which site shall contain at least four acres.

30 Vacancies in said board of directors shall be filled by appoint-
31 ments made by the board to hold until succeeding regular election
32 and qualification of successors.

Sec. 4. Said board of directors shall be a corporation and as
2 such may contract and be contracted with, sue and be sued, and
3 shall have power to lay a levy, annually, of not more than fifteen
4 cents, and for the years one thousand nine hundred and twenty-one
5 and one thousand nine hundred and twenty-two power to lay a
6 special levy in addition to the regular annual fifteen cents levy
7 not to exceed thirty cents on every one hundred dollars assessed
8 valuation of property in said county for the purpose of purchasing
9 said site and erecting, equipping and furnishing suitable buildings
10 thereon for said county high school; and said board shall also have
11 power to levy annually not more than ten cents on every one hun-
12 dred dollars assessed valuation of property in said county for the
13 support and operation of said county high school; and said board
14 shall have full power to employ teachers and other necessary em-
15 ployees for said school, fix their compensation and prescribe and
16 enforce rules and regulations for the control and operation of said
17 school.

18 For their services, each of the members of said board of directors
19 shall be paid, out of the money raised for the use of said school,
20 the sum of five dollars per day for the time actually and necessarily
21 spent by them in the discharge of their duties as such board of
22 directors. But they shall not receive pay for more than ten days
23 for any one year.

24 All acts and parts of acts inconsistent with this act are hereby
25 repealed.

House Bill No. 168

(House Bill No. 168—Mr. Murphy.)

AN ACT to amend and re-enact section four of chapter twenty-five of
the acts of the legislature of one thousand nine hundred and
eleven, regular session, relating to the establishing of a high school
in Clay county.

Be it enacted by the Legislature of West Virginia:

That section one and four of chapter twenty-five of the acts of the legislature of one thousand nine hundred and eleven, relating to the establishing of a high school in Clay county, be amended and re-enacted so as to read as follows:

Section 1. That a high school be and the same is hereby established in the county of Clay, state of West Virginia, in or near the town of Henry, in said county, which shall be known as the Clay county high school, the site for which is to be selected by the board of directors of said school, which said board of directors shall consist of one member to be elected at the next general election and every four years thereafter, and whose term of office shall commence on the first day of July following said election and be for four years and until his successor is elected and qualified; and the president and the commissioners of the county court of said Clay county and the county superintendent of free schools of said county of Clay, shall be *ex-officio* members of the said board of directors, and the county superintendent of free schools of said county shall be *ex-officio* president of said board of directors. The *ex-officio* members of said board of directors shall constitute said board of directors of said Clay county high school until the elective member of said board of directors shall have been elected and qualified.

In case of a vacancy caused by death, resignation or otherwise of the regularly elected member of the board of directors, said vacancy shall be filled by the county superintendent of schools of said county.

Sec. 2. For the purpose of procuring additional grounds and for erecting or purchasing and equipping suitable buildings, such as dormitories, gymnasiums, paying the salaries of teachers, etc., for said high school, said board of directors shall lay a levy of not to exceed twenty cents on the one hundred dollars valuation of all taxable property for the teachers' fund, and shall lay a levy not to exceed ten cents on the one hundred dollars valuation on all taxable property for building fund.

All acts or parts of acts inconsistent herewith are hereby repealed.

House Bill No. 193

(House Bill No. 193—Mr. McClintic, of Kanawha.)

AN ACT to amend and re-enact section two of chapter sixty-eight of the acts of one thousand nine hundred and thirteen relating to the creation and establishment of the independent school district of St. Albans, in Kanawha county.

Be it enacted by the Legislature of West Virginia:

That section two of chapter sixty-eight, of the acts of one thousand nine hundred and thirteen be amended and re-enacted so as to read as follows:

Section 2. The board of education of said district shall consist of five members, who, to be eligible to election as members of said board shall have paid, either directly or indirectly, for the preceding year, in such territory, taxes on either real or personal property, or both, of the assessed value of five hundred dollars or have children living in St. Albans of school age and shall reside in said independent school district and not be absent therefrom more than ninety consecutive days during his term, who shall be elected by the qualified voters resident therein and shall be vested with the same rights and exercise the same power, perform the same duties, receive the same compensation and be governed by the same laws that boards of education otherwise than those of independent school districts are governed by, except insofar as changed by the provisions of this act. No person engaged in the profession of school teaching nor any person holding any public office shall be eligible to election to or hold office as a member of the board of said independent school district. A board of education shall be elected on the second Tuesday in June, one thousand nine hundred and twenty-one, who shall serve until their successors are elected and qualified, except that the present members of the board of education of the independent school district of St. Albans shall be entitled to remain in office until their present terms expire, and except, further, that in the election to be held in June, one thousand nine hundred and twenty-one, three members shall be elected, one for a term of one year, one for a term of two years, and one for a term of three years, and in the election to be held in June, one thousand nine hundred and twenty-two, and June one thousand nine hundred and twenty-three, two members shall be elected for a term of three years at each election, and one

30 member for a term of three years in the year one thousand nine hun-
31 dred and twenty-four, and in like manner every two years two mem-
32 bers shall be elected for a term of three years, and on the third year
33 one member shall be elected for a term of three years. All such elec-
34 tions shall be held at the city hall in the town of St. Albans, and
35 after two weeks notice in all the newspapers published in said inde-
36 pendent school district, and by officers to be appointed by the
37 board of education who shall have the use of the current registra-
38 tion list of said independent school district without cost.

39 The board of education shall on or before the first Monday in
40 July in each year, if practicable, appoint the superintendent, prin-
41 cipals and teachers for all the schools in the district and shall fix
42 their salaries as provided by the general school law. All such ap-
43 pointments shall be in writing according to the form of contract
44 to be provided by the state superintendent of schools, and all such
45 contracts, together with the certificates of the appointees, shall be
46 filed with the secretary of the board.

47 On or before the first Monday in June in each year, the board of
48 education shall publish a general financial statement, showing the
49 taxes levied, and the sums collected thereon, together with all other
50 moneys from any, and every source derived, and the sums disbursed
51 in detail for the payment of salaries, for buildings and repairs,
52 books and equipment, fuel, light and janitor service, and all other
53 items entering into the maintenance of the schools. Also there
54 shall be shown the bonded indebtedness, the sums paid into the
55 sinking fund, and the balances remaining in each fund, and where
56 deposited. The said statement shall be published in one or more
57 newspapers of general circulation, and copies shall be posted in
58 each of the school buildings in the district.

59 All acts and parts of acts coming within the purview of this
60 act and in conflict with the provisions hereof are hereby repealed.

House Bill No. 217

(House Bill No. 217—Mr. Knight)

AN ACT to amend and re-enact section thirteen of chapter one hun-
dred and eighteen of the acts of the legislature of one thousand
nine hundred and fifteen, regular session, relating to the inde-
pendent school district of Weston.

Be it enacted by the Legislature of West Virginia:

That section thirteen of chapter one hundred and eighteen of the acts of one thousand nine hundred and fifteen be amended and re-enacted so as to read as follows:

Section 13. The superintendent of schools for Weston district shall act as examiner for the district; and it shall be his duty to examine all applicants for positions as teachers in the district; but any applicant to be entitled to examination shall furnish satisfactory evidence of good moral character and shall at the time of making application for admission to an examination hold a valid West Virginia first or second grade certificate issued by the state superintendent of schools. The superintendent shall deliver to the board of education the manuscripts of each applicant, with the grading thereon; and the board, after a thorough examination of said grading, shall instruct the secretary to issue certificates of qualification to said applicants, designated as first grade or second grade according to the merits of the applicants, the different grades of certificates corresponding to the standard as required by the general school law. No certificate shall be granted for a longer period than one year; but all such certificates may be renewed by the board upon the recommendation of the superintendent. Examinations shall be held not later than the last Monday in July, at such time and place as the superintendent may appoint. The subjects for examination shall be prescribed by the superintendent, with the consent of the board. All applicants for examination shall pay a fee of one dollar. The superintendent may receive such compensation for holding examinations as the board may allow out of fees received for examining teachers; the remainder of such fees, if any, shall be paid into the building fund of the district; *provided*, that the board of education may by unanimous vote, without examination, or with such partial examination as they may deem advisable, issue a high school certificate based upon a diploma for the West Virginia university or a diploma from such other college as the board of education may place on an accredited list. Under like conditions the board of education may issue a certificate of any class based on other certificates, when, in their opinion, such other certificates are of a rank to justify their action.

House Bill No. 258

(House Bill No. 258—Mr. Moore, of Marshall.)

AN ACT to amend and re-enact chapter fifty-four of the acts of the legislature of one thousand eight hundred and ninety-five, as amended by chapter eighteen, acts of the legislature of one thousand eight hundred and ninety-nine, and as amended by chapter thirty-eight of the acts of the legislature of one thousand nine hundred and nineteen, creating the "Independent School District of Moundsville, in Marshall county," bringing all legislation regarding said district into one chapter and enlarging and changing the boundaries of said district.

Be it enacted by the Legislature of West Virginia:

That chapter fifty-four of the acts of the legislature of one thousand eight hundred and ninety-five, as amended by chapter eighteen of the acts of the legislature of one thousand eight hundred and ninety-nine and as amended by chapter thirty-eight of the acts of the legislature of one thousand nine hundred and nineteen, creating the "Independent School District of Moundsville," in Marshall County, be amended and re-enacted, to read as follows:

Section 1. So much of the districts of Washington and Clay 2 in Marshall county, West Virginia, as are embraced in the following described boundaries, and including all of the city of Mounds- 3 ville, in said county, shall constitute one school district to be called 4 the "Independent School District of Moundsville," that is to say: 5 Beginning at the mouth of Lindsay's run south of the city of 6 Moundsville, on the east bank of the Ohio river; thence south- 7 ward to the Robert's Ridge road near the old Higgins' resi- 8 dence; thence with said road southward and up the hill to sharp 9 curve and intersection of B. F. Holmes, Reuben Gamble and Ben 10 Franklin Coal Company lines; thence eastward with line be- 11 tween Ben Franklin Coal Company and Ward heirs and B. F. 12 Holmes to corner to lands of Holmes', Ward heirs' and Richard- 13 son's; thence eastward through Richardson's land to southeast 14 corner of the R. J. McFadden tract, formerly Reynold's land; 15 thence eastwardly to corner of the lands of Greathouse, Pierce 16 and McFadden; thence in a northeasterly direction with the south 17 and east line of lands of R. J. McFadden, formerly Reynolds, 18 William Allen, Gallaher, and West Virginia state prison farm 19 to the Fork Ridge road at top of hill near residence of Charles 20

21 Heath; thence northward down said road to Maxwell's Point;
22 thence through Maxwell's land to the intersection of Washington
23 district line with a branch of Middle Grave creek that empties
24 into said creek at a point about fifty yards southwest of the brick
25 residence of Edward Karr; (all lands hereinbefore designated,
26 and lying north and west of said line are in Clay District in said
27 county and are to be included in the said independent school
28 district of Moundsville); thence in a northeasterly direction with
29 the said branch of said Middle Grave creek to the east and back
30 line of lands of said Edward Karr; thence with the said east and
31 back line of said Karr land to the east and back line of lands of
32 Joseph Roberts' heirs; thence with said Roberts' heirs east and
33 back line to lands of H. H. Cox heirs, formerly Barker and Fer-
34 rell lands; thence with the back and east line of said Cox land to
35 the back and east line of lands of the Moundsville Mining &
36 Manufacturing Company; thence with the east line of said com-
37 pany's land crossing the Waynesburg road near the watering
38 trough, crossing the point east of Harry Rankin's residence through
39 lands of Mineral State Coal Company; thence in a northeasterly
40 direction to the corner of lands of V. L. Cockayne's heirs, and
41 Marshall county infirmary; thence with the south line of said
42 Cockayne lands to the northeast corner of camp grounds owned
43 by Wheeling District Camp Meeting Association; thence with the
44 south line of the said Cockayne land westward to the state line
45 on the Ohio river; said lands, beginning with the said Edward
46 Karr tract, lying west and south of the said line, being in Wash-
47 ington district in said county and included in the said independ-
48 ent school district of Moundsville); thence southward with said
49 state line to a point due north of the place of beginning; thence
50 due south crossing the Ohio river to the place of beginning.

Sec. 2. For the purpose of insuring representation on the board
2 of education for all parts of said district, it shall be divided into
3 four wards which shall conform as nearly as may be to the wards
4 of the city of Moundsville, and which said wards shall respec-
5 tively embrace the territory designated as follows: First Ward:
6 All that part of said district lying north of the center of Second
7 street in said city, and any extensions thereof and any continua-
8 tion of the course of said street. Second Ward: All that part of
9 said district lying south of the center of said Second street and
10 any extension thereof, and any continuation of its course. Third

11 Ward: That portion lying north of the center of said Fifth street,
12 its extensions and continuation of its course, and north of the
13 center of Ninth street, its extensions and continuation of its
14 course. Fourth Ward: That portion of said district lying south
15 of the center of Ninth street in the city of Moundville, and any
16 extension of said street and the continuation of its course. Any
17 residence property touched by any division line herein designated
18 shall be considered as in the ward of said line.

Sec. 3. There shall be a board of education for said district
2 to be known as the "Board of Education of the Independent
3 School District of Moundville"; said board shall be a body cor-
4 porate in law, and as such may contract, sue and be sued, plead
5 and be impleaded, and in all respects shall be governed by the
6 general law of this state relating to education, with such addi-
7 tional powers and privileges as are conferred by this act.

8 Said board of education shall have general oversight and con-
9 trol of the schools of said district; may establish and discontinue
10 schools therein; and, for the purpose of education, including ag-
11 riculture, manual training, domestic science, athletics and mili-
12 tary training, may purchase, lease, hold, sell and convey such
13 real estate and personal property as the board may deem neces-
14 sary and expedient from time to time; may receive gifts and do-
15 nations including devises and bequests; shall have absolute title
16 to all such property and shall manage and control the same. Said
17 board may appoint such janitors, custodians and care-takers for
18 said property as from time to time it may deem necessary, and
19 pay their compensations from the building fund of said district.
20 In event any association or organization shall erect a community
21 house in the city of Moundville, as a memorial to soldiers of
22 the world war or for other worthy community purposes, and not
23 for profit, the said board is authorized to donate a site for such
24 community house, if in the judgment of the board such donation
25 is advisable.

26 In addition to its other enumerated powers, the said board may
27 purchase and sell text books for use in the schools in said dis-
28 trict, selling said books as nearly as may be at actual cost, plus
29 overhead expenses; said books shall be paid for out of the build-
30 ing fund of said district and sold and accounted for by the dis-
31 trict superintendent or any other employee of the board desig-
32 nated by him.

33 Said board of education shall consist of eight commissioners
34 to be elected or appointed as hereinafter specified, not more than
35 two of which commissioners shall reside in any one ward of
36 said district; and the removal of any commissioner from the
37 ward from which he was appointed or elected shall render his
38 office vacant.

39 There shall be two commissioners of said board elected bi-
40 ennially for a term of eight years, except that at the first elec-
41 tion to be held after this act takes effect there shall be four
42 elected, and the two receiving the highest number of votes shall
43 each be declared elected for a term of eight years, and the two
44 receiving the next highest shall each be elected for a term of
45 four years. The present members of the board of education
46 of the independent school district of Moundville shall con-
47 tinue in office until their respective terms shall expire, and at
48 the first meeting of the board of education of said district held
49 after this act takes effect said board shall increase its members
50 from six to eight by appointing two additional commissioners
51 to serve until the next election of school officers in said independ-
52 ent school district as hereinafter provided; said appointments
53 to be so made that not more than two members of the board
54 shall reside in any one ward of said district.

55 The said board of education at the first meeting thereof in
56 each year shall organize by electing one of its members as its
57 president. It shall also appoint a resident of said district; not a
58 member of the board, as its secretary and fix his salary. These
59 officers shall perform the duties of their respective offices pre-
60 scribed by this act, as well as general statute, and such other
61 duties as pertain to said officers generally.

62 The said board shall hold regular meetings at such times as
63 it may designate by proper order entered in its record; and
64 special meetings may be called by the president, or by a ma-
65 jority of the board for stated purposes, by giving one day's no-
66 tice to each member of the board of the time and place of meet-
67 ing. At all meetings of the board a majority of the members
68 then in office shall constitute a quorum.

Sec. 4. The board of education shall annually in the month
2 of May appoint a superintendent for the schools of the district,
3 a principal for each school therein, if desired, and all teachers
4 for the district, if competent persons for such places are avail-

5 able. At the same meeting it shall fix salaries for all persons
6 so appointed, and for all teachers of the district. Said super-
7 intendent, principals and teachers shall perform all duties and
8 have such powers as pertain to their respective offices under the
9 general law of this state and shall be subject to removal by
10 the board for such causes and by such procedure as may be fixed
11 by law. Vacancies in the office of commissioners, principal or
12 teacher shall be filled by the board.

13 In addition to the certificate of general qualification herein-
14 after required for appointment as superintendent, principal or
15 teacher in said district, each applicant for any such position shall
16 file with the board of education a health certificate from a phy-
17 sician to be designated, or if not designated, to be approved by
18 the board; and no person shall be so employed who is physically
19 unfit, or who shows symptoms of any contagious or infectious
20 disease.

Sec. 5. Persons employed to teach in said district shall file
2 with the secretary of the board a valid certificate issued by the
3 department of free schools of this state, showing preparation
4 for the particular work such teacher is employed to do. *Pro-*
5 *vided*; that the board may appoint two competent teachers to act
6 with the district superintendent as an examining committee for
7 the district, and in event any applicant is to be examined, such
8 examination shall be conducted by said committee; having regard
9 for the particular work such applicant wishes, or may be em-
10 ployed to do. Such examination shall embrace as nearly as may
11 be, the subjects required to be passed by applicants for state uni-
12 form certificates. Certificates shall be issued to successful appli-
13 cants at such examinations, valid for one, two or three years, and
14 it shall be signed by the city superintendent and at least one other
15 member of said committee. *Provided, further*, that said exam-
16 ining committee, in lieu of an examination in the subjects herein-
17 before mentioned, may recognize a valid teachers' certificate of any
18 accredited state, or a diploma from any college or normal school
19 held by the applicant, by issuing its certificate based on the evi-
20 dence of preparation set out in such certificate or diploma, pre-
21 sented by said applicant. Examinations shall be held at such
22 times as the examining committee may think advisable and under
23 such rules as the committee may from time to time adopt.

Sec. 6. Annually, and within thirty days preceding the first

2 day of April, the board shall employ some competent person or
3 persons to take an enumeration of all the youth of school age
4 living within the district giving the classification and making
5 and filing all reports required by the laws of the state pertain-
6 ing to such enumeration, and fix and pay the compensation for
7 said services.

Sec. 7. Admission to all schools of the district shall be free
2 to all children residing therein, between the ages of six and twenty-
3 one years. The board of education shall have the power to make
4 and enforce rules for the government and conduct of said schools,
5 for the examination, promotion and graduation of pupils and for
6 the suspension or expulsion of any pupil or high school student,
7 when, in the opinion of the board, his or her attendance would be
8 dangerous to the health, or detrimental to the morals of other
9 pupils and students, or to the discipline of the schools. It shall
10 also employ a competent physician, and otherwise provide for
11 proper medical and dental inspection of pupils attending the
12 schools of the district. It may also employ a school nurse for the
13 district and in all respects protect the health of teachers and pupils
14 in said schools. Separate schools shall be maintained for white
15 and colored youth of the district, and until such time as a colored
16 high school shall be established, the board may give such financial
17 aid as it may deem proper to colored children attending high school
18 in another district or county.

Sec. 8. It shall be the duty of the board of education annually,
2 to make the estimates and publish the same, and to lay and report
3 the levies required by the law of this state, to provide sufficient
4 funds, to continue the graded schools and high schools of the
5 district for a period of not less than seven nor more than ten
6 months, and for all other legal purposes relating to the schools of
7 the district. *Provided*, that all levies for school purposes in said
8 district exclusive of levies authorized to pay bonded indebtedness
9 and interest thereon may total, but shall not exceed one dollar and
10 twenty-five cents on each one hundred dollars of the valuation on
11 all taxable property in the district. The levies made under the
12 provisions of this section shall be reported, and the funds derived
13 therefrom shall be collected and disbursed, as required by law.
14 But nothing contained in this section shall deprive said board of
15 any additional privileges and powers with regard to such levies as

16 are now or as may hereafter be given to boards of education by
17 general law of this state.

Sec. 9. The first election held under this act for the election
2 of commissioners shall be held on the second Thursday of March,
3 one thousand nine hundred and twenty-three, and subsequent elec-
4 tions biennially thereafter. At every election each voter shall be
5 given a separate ballot, containing the names of candidates for
6 school commissioner for the independent school district of Mounds-
7 ville, prepared according to general law governing elections. The
8 election officers appointed by the city of Moundsville, to conduct
9 the city election shall also conduct and report the election for mem-
10 bers of the board of education for the independent school district
11 of Moundsville, in the same manner, and under the same laws and
12 rules as govern the city elections. Said election officers shall make
13 separate tally sheets showing the vote for each commissioner and
14 shall certify the result of such election to the secretary of the
15 board of education within three days after the holding of any
16 such election. The board of education shall meet within five days
17 after any such election, or as soon thereafter as practicable, and
18 declare the result thereof; which result they shall cause to be en-
19 tered upon the journal and notice thereof in writing shall at once
20 be given to each newly elected commissioner. In event any such
21 election shall be contested, the board shall hear and determine the
22 result according to the provisions of the general law governing con-
23 tested elections. In event there shall be a tie vote at any such
24 election the board shall choose between the candidates so receiving
25 an equal number of votes. The board shall arrange with the
26 officials of said city a fair apportionment of the expense of such
27 elections and shall provide for the payment of its just portion
28 thereof.

Sec. 10. It shall be the duty of every newly elected or appointed
2 commissioner when notified of his election or appointment to
3 appear at a time and place designated in such notice, within thirty
4 days from the date of his said election or appointment, and take
5 and subscribe the following oath or affirmation, which shall be
6 made a matter of record: "I, do solemnly
7 swear (or affirm) that I will support the constitution and laws of
8 the United States and of the state of West Virginia, and that I
9 will faithfully discharge the duties of school commissioner of the
10 independent school district of Moundsville, to the best of my

11 ability, so help me God." The secretary of the board of educa-
12 tion is hereby authorized to administer said oath.

Sec. 11. Every person who has legal or actual charge of a
2 child or children not less than seven nor more than fourteen years
3 of age shall cause such child or children each year to attend a free
4 day school for the full school term of the district. *Provided,*
5 *however,* that such person shall be exempt from the foregoing
6 requirement for any of the following causes:

7 (a) Instruction for a time equal to that required by this act
8 in a private, parochial or other school approved by the district
9 board of education. The principal or other person in control of
10 such private, parochial or other approved school shall upon the
11 request of the board of education, furnish to said board such in-
12 formation as it may require with regard to the attendance and
13 instruction of pupils between the ages of seven and fourteen years
14 enrolled therein.

15 (b) Instruction for a time equal to that required by this act
16 in the home of such child or children or elsewhere by a person or
17 persons who are, in the judgment of the board of education,
18 qualified to give instruction in the subjects required to be taught
19 in the free elementary schools of this state. The person or per-
19-a sons giving such instruction shall, upon the request of the board
20 furnish to said board such information as it may require with re-
21 gard to the attendance and instruction of pupils between the ages
22 of seven and fourteen years receiving such instruction.

23 (c) Physical or mental incapacity for school attendance and
24 the performance of school work.

25 (d) Death or serious illness in the immediate family of the
26 pupil.

27 (e) Extreme destitution of parents or other person or per-
28 sons in legal or actual charge of a child or children. Exemption
29 for this cause shall not be allowed when such destitution is re-
30 lieved through public or private means.

31 (f) Conditions rendering school attendance impossible or
32 rendering it hazardous to the pupil's life, health or safety.

33 (g) Observance of regular church ordinances.

34 (h) Other causes that are accepted as valid by the district
35 superintendent.

36 Any person who, after due notice has been served upon him as
37 hereinafter provided, shall fail to cause a child or children in his

38 legal or actual charge to attend school as hereinbefore provided,
39 shall be guilty of a misdemeanor and shall upon conviction
40 thereof before any justice of the peace be fined not less than three
41 dollars nor more than twenty dollars, together with the costs of
42 the prosecution, or confined in jail not less than five days nor more
43 than twenty days. Each day a child is out of school contrary to
44 the provisions of this act shall constitute a separate offense.

45 Whenever a person accused of violating the provisions of this
46 act has been tried and acquitted, the costs of prosecution shall be
47 paid by the board of education out of the building fund of the
48 district.

Sec. 12. The board of education shall, at its first meeting in
2 each year or as soon thereafter as practicable, appoint one or more
3 attendance officers who shall qualify as such and shall enforce the
4 provisions of this act. Each officer so appointed shall use due
5 diligence to ascertain any violations of this law, and when from
6 personal knowledge or by report or complaint from any resident
7 or teacher of the district he believes that any child subject to the
8 provisions hereof, has been absent from school contrary to the
9 provisions of this act, he shall immediately give written notice
10 to the parent, guardian, or custodian of such child that the at-
11 tendance of said child at school is required, and if the parent,
12 guardian or custodian of such child does not comply with the
13 provisions of this act at once, then such attendance officer shall
14 make complaint against such parent, guardian or custodian be-
15 fore a justice of the peace of the county; and *provided*, that for
16 subsequent offenses in any school year no such notice shall be
17 required. When any doubt exists as to the age of a child absent
18 from school, the attendance officer shall have authority to require
19 a properly attested birth certificate or an affidavit from the parent,
20 guardian or custodian of such child, stating the age of such child.
21 The attendance officer shall, in the performance of his duties as
22 such officer, have authority to visit and enter any office, factory,
23 or business house employing children; he shall also have the au-
24 thority to arrest without warrant any child absent from school
25 in violation of the provisions of this act and to place such child in
26 the school in which such child is or should be enrolled. Said
27 attendance officer shall be paid monthly at such rate per diem for
28 the time actually spent in the performance of his duties as the
29 board shall determine; but in no case shall payment for any
30 month's services be made until the attendance officer has filed with

31 the secretary of the board the statement required by said board
32 of education, together with a sworn statement of the number of
33 truancy cases investigated and the time actually spent in perform-
34 ing such duties. When the attendance officer has faithfully per-
35 formed his duties and filed the statement required, the board
36 of education, if satisfied that the same is just and correct, shall
37 issue to him an order on the sheriff for the amount of his ac-
38 count, payable out of the building fund of the district.

Sec. 13. It shall be the duty of the secretary of the board
2 of education at the beginning of the school term to furnish to
3 the district superintendent a copy of the last school enumer-
4 ation for the district, together with the name and address of
5 the attendance officer of the district. The superintendent, with
6 the aid of the several principals and teachers shall at the open-
7 ing of school and at such times as the board of education may
8 require, compare said enumeration list with the enrollment of
9 the school and report to the attendance officer the names and
10 residences of parents, guardians or custodians of children between
11 the ages of seven and fourteen who are or have been absent from
12 school without legal excuse; also, the names and residences of
13 parents, guardians or custodians of children of compulsory school
14 age not included in such enumeration list who are or have been
15 absent from school without legal excuse.

Sec. 14. Any school officer, attendance officer, superintendent,
2 principal, teacher or other person upon whom a duty is im-
3 posed by this act who neglects or refuses to perform any duty or
4 duties so imposed upon him shall be guilty of a misdemeanor,
5 and upon conviction thereof shall be punished by a fine not less
6 than three dollars nor more than twenty dollars.

Sec. 15. Any person who induces or attempts to induce any
2 child unlawfully to absent himself from school or who harbors
3 or employs any child of compulsory school age while the school
4 which he is required to attend is in session, or employs such child
5 within the term of said school without the written permission of
6 the district superintendent shall be guilty of a misdemeanor, and
7 upon conviction thereof shall be punished by a fine of not less
8 than twenty-five dollars nor more than fifty dollars or
9 may be confined in jail not less than five days nor more than thirty
10 days.

Sec. 16. All fines collected, under the provisions of this act shall be paid over at once by the justice to the sheriff, and by him credited to the building fund of the district; and every attendance officer shall make to the secretary of the board of education and to the sheriff an itemized statement on the last day of each month of all fines imposed as provided herein.

Sec. 17. Every child over fourteen and under sixteen years of age who is not engaged in some regular employment or business for at least six hours per day or who has not received written permission from the city superintendent to engage in profitable employment at home, shall attend a public day school or other day school approved by the board of education of district during the entire time the public schools are in session, subject to such exemptions as are provided herein; except that no child over fourteen and under sixteen years of age shall be exempt from school attendance as herein required for the reason that he has completed an eight-years' course of study in the elementary and grammar schools or junior high schools of the state.

Sec. 18. Every child over fourteen and under sixteen years of age who is engaged in regular employment or business for six or more hours during the day shall attend an evening school, part-time day school or other continuation school for at least five hours per week for a period of twenty weeks, or for such period as such school is in session, if it is in session less than twenty weeks; provided that this provision shall not become effective till such an evening school, part-time day school or other continuation school approved by the board of education of the district shall be established. Individuals, firms and corporations employing children over fourteen and under sixteen years of age shall, if necessary to enable such children to attend an evening school, part-time day school or other continuation school as herein required, release such children from work for at least five hours per week for a period of not less than twenty weeks each year. All children over fourteen and under sixteen years of age shall be included as a separate class in the enumeration herein required to be made. The requirements of this section shall be enforced by the persons and in the manner prescribed for the enforcement of the requirements of the other provisions of this act regarding compulsory attendance.

Sec. 19. Chapter fifty-four of the acts of the legislature of 2 one thousand eight hundred and ninety-five, entitled "An act

3 creating the Independent School District of Moundsville" and
4 all acts amendatory thereof, and all other acts coming within the
5 purview of this act and inconsistent herewith, are hereby repealed.

House Bill No. 380

(House Bill No. 380—Mr. Davis, of Taylor.)

AN ACT to amend and re-enact chapter eighty-eight of the acts of the legislature of West Virginia of the year one thousand eight hundred and ninety-seven and chapter ninety-six of the acts of the legislature of West Virginia of the year one thousand nine hundred and fifteen, embodying the charter of Grafton independent school district.

Be it enacted by the Legislature of West Virginia:

That chapter eighty-eight of the acts of the legislature of West Virginia of one thousand eight hundred and ninety-seven and chapter ninety-six of the acts of the legislature of West Virginia of one thousand nine hundred and fifteen be amended and re-enacted so as to read as follows:

Section 1. The territory contained within the corporate limits of the city of Grafton shall continue to be an independent school district and known as Grafton independent school district.

Sec. 2. There shall be a board of education for said school district consisting of a president and four commissioners, all of whom shall be freeholders and qualified voters of the district, elected by the qualified voters of said district. The president and commissioners now in office, or now elected to such offices, shall serve for the terms for which they were respectively elected. There shall be a president and two commissioners elected at the general presidential election to be held in November, one thousand nine hundred and twenty-four, and every four years thereafter, and there shall be two commissioners elected at the general congressional election to be held in November, one thousand nine hundred and twenty-two, and every four years thereafter. The terms of office of such president and commissioners shall be four years and until their successors are elected and qualified and shall commence on the first day of July next following their election. Vacancies in the offices of president or school commissioner shall be filled by the remaining members of the board of

18 education, until the next election at which members of the board
19 are chosen.

• Sec. 3. Before entering upon their duties the president and
2 commissioners shall take the oath prescribed by section five of
3 article four of the state constitution, which oath shall be filed
4 with the secretary of the board of education.

Sec. 4. The board of education shall hold such meetings as may
2 be necessary for the conduct of its business and shall fix the time
3 and place of its regular meetings by an order entered upon its
4 minute book. Special meetings may be called by the president
5 or by two commissioners at any time upon reasonable notice to all
6 members of the board. Three members shall constitute a quorum.

Sec. 5. The president shall preside at all meetings of the board
2 when he is present. In the absence of the president, one of the
3 commissioners shall be chosen as president *pro-tempore*. The
4 president shall have a vote upon all questions.

Sec. 6. The president shall be paid five dollars and each com-
2 missioner four dollars for each meeting attended; *provided*, they
3 shall not receive pay for more than fifteen meetings in any one
4 year.

Sec. 7. Women shall be eligible equally with men for the offices
2 of president and commissioners and secretary of the board.

Sec. 8. The board of education shall be a body corporate by
2 the name of Board of education of Grafton independent school
3 district, and as such may sue and be sued, pleaded and be im-
4 pleaded, contract and be contracted with; shall succeed and be
5 subrogated to all the rights of former boards of education; shall
6 prosecute all suits and actions in law or equity now pending or
7 which might have been brought and prosecuted in the name of
8 any such former board of education for the recovery of any
9 money, or property or damage to any property due to or vested in
10 such former board, and shall also be liable in its corporate ca-
11 pacity for all claims legally existing against the board of educa-
12 tion of which it is successor. Said board shall, according to
13 law, hold and dispose of any real estate or personal property be-
14 longing to said corporation or its predecessors, or that may here-
15 after come into its possession. Said board shall receive, hold,
16 and dispose of, according to law, and the intent of the instru-
17 ment conferring title, any gift, grant, devise, or bequest. All
18 school houses, school sites, and other school property shall be

19 exempt from execution or other process and from taxation and
20 free from lien or distress for taxes or for county or state levies.

Sec. 9. The board of education shall have authority to sell any
2 school buildings, when in its judgment, they are improperly lo-
3 cated or unsuitable for school purposes; *provided*, such sale shall
4 be at public auction after advertising the same once a week for
5 four successive weeks in a newspaper of general circulation pub-
6 lished in said school district.

Sec. 10. The board shall provide by purchase, condemnation or
2 otherwise, such lands as may be necessary for school buildings,
3 playgrounds, athletic fields, experiments in agriculture, and other
4 educational purposes, and shall have authority to make the neces-
5 sary expenditures for the improvement of such lands.

6 If the owner or owners refuse to sell any land selected by the
7 board of education as a location for a school house or other neces-
8 sary buildings, or for enlarging a school house lot, or for any other
9 educational purpose, or if such owner demand an unreasonable
10 price therefor, or is "*non compos mentis*," a "*femme couverte*,"
11 a minor, or a non-resident, the board of education may petition
12 the circuit court to have such land condemned, and such pro-
13 ceedings shall thereupon be had in the name of such board for
14 the condemnation thereof as are provided for in chapter forty-
15 two of the code of West Virginia.

Sec. 11. The board of education shall provide by purchase,
2 lease, building, or otherwise a sufficient number of suitable school
3 houses and other buildings to meet the educational needs of the
4 district, and shall also provide such furniture, fixtures, and ap-
5 paratus for said school houses and other buildings, as may be
6 necessary for the effectiveness of the schools and for the con-
7 venience, health, and cleanliness of the pupils thereof, including
8 fuel and other necessary supplies, and shall cause the school
9 property to be kept in good order and repair, and may provide for
10 medical and dental clinics.

Sec. 12. The board of education shall fix the length of the
2 school term and the salaries of teachers, janitors and other em-
3 ployees; shall have the power of prescribing the qualifications of
4 teachers in the schools of the district, and may appoint an ex-
5 amining committee for the purpose of examining applicants for
6 positions as teachers and granting certificates to those found
7 qualified to teach in the schools; shall establish courses of study,

8 and determine what subjects shall be taught and what depart-
9 ments established, and shall grade the schools; may permit chil-
10 dren of school age residing outside the district to attend school
11 therein upon such terms and conditions as may to the board seem
12 proper; may make reasonable regulations and rules for the gov-
13 ernment of the schools, concerning admission of pupils, and for
14 the exclusion of pupils when necessary for the discipline, health
15 and well-being of the pupils; may, in its discretion, provide proper
16 medical and dental inspection of pupils, and enact and enforce
17 regulations to carry into effect recommendations made by the
18 medical and dental inspectors; shall adopt text books for the use
19 of the schools and may provide free texts for indigent pupils; and
20 shall possess all other powers and authority vested in boards of
21 education by the general school law not inconsistent herewith.

Sec. 13. The board shall have authority to appoint a superin-
2 tendent of schools for said district and contract with him for his
3 services and prescribe his duties.

Sec. 14. The board shall select a suitable person to act as secre-
2 tary of the board and pay him a reasonable salary to be fixed by
3 the board. The secretary shall serve at the pleasure of the board
4 and shall not be a member thereof. He shall take the oath pre-
5 scribed by law and give bond if required by the board. He shall
6 record the official proceedings of the board in its minute book and
7 shall also record all financial transactions of the board in account
8 books for that purpose in the form prescribed for county financial
9 secretaries by the chief inspector under chapter thirty-three of
10 the acts of the legislature of one thousand nine hundred and
11 eight; he shall perform such other duties as may be required of
12 the board of education or are prescribed by law. He shall have
13 custody and care of all records and papers belonging to the board
14 including evidences of title, contracts, and obligations and shall
15 preserve the same in the office of the board of education properly
16 arranged for reference. He shall annually make such reports to
17 the county superintendent and other school officers as are re-
18 quired by the general school law.

Sec. 15. All payments by the board of education shall be made
2 by orders issued by authority of the board drawn upon the treas-
3 urer of the county payable from the proper fund specified in the
4 order, and signed in behalf of the board of education by the
5 president and secretary of the board. Such order, when properly

6 executed shall be delivered by the secretary to the county treas-
7 urer for payment, who shall pay the same in the manner pre-
8 scribed by law.

Sec. 16. The sheriff of Taylor county, as county treasurer, shall
2 perform all the duties of such office with respect to said school
3 district and the funds belonging to said board of education that
4 are prescribed by chapter two of the acts of the legislature of one
5 thousand nine hundred and nineteen.

Sec. 17. The board of education shall have power and authority
2 to do all acts and things and make any provision necessary for the
3 educational welfare of Grafton independent district and especially,
4 in order to take advantage of any federal or state appropriations
5 of funds for educational purposes which may thereby be made
6 available for the schools of the district, and of any federal or
7 state measure of any other character enacted for the advance-
8 ment of education.

Sec. 18. All provisions of the general school law of the state,
2 and all acts and laws heretofore existing, which are in any man-
3 ner inconsistent with the provisions of this act, shall be void
4 within said school district; otherwise, the said general school law,
5 shall remain in full force and effect in this district, or elsewhere
6 in this state.

Sec. 19. All acts or parts of acts inconsistent or in conflict
2 herewith are hereby repealed.

House Bill No. 415

(House Bill No. 415—Mr. Sanders.)

AN ACT to amend and re-enact chapter sixteen of the acts of one
thousand nine hundred and nine of the legislature of West Vir-
ginia.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the acts of the legislature of West Virginia,
of one thousand nine hundred and nine, entitled: "An act to amend
and re-enact chapter one of the acts of one thousand eight hundred
and eighty-nine of the legislature of West Virginia, creating the
'School district of Huntington,' as amended by chapter seventy-four
of the acts of one thousand eight hundred and ninety-one, chapter fif-
ty-six of the acts of one thousand eight hundred and ninety-five, chap-

ter eighty-three of the acts of one thousand eight hundred and ninety-seven, chapter one hundred and thirty of the acts of one thousand nine hundred and one, and chapter seventy-nine of the acts of one thousand nine hundred and three; and to change and enlarge the boundary limits of said independent school district, so as to include territory within the limits of 'The independent school district of Central', established by chapter eighty of the acts of one thousand nine hundred and three, and additional territory, and to abolish 'The independent school district of Central City', established by chapter eighty of the acts of one thousand nine hundred and three, and additional territory, and to abolish 'the independent school district of Central City'; as amended by chapter sixty-seven of the acts of one thousand nine hundred and thirteen, and by chapter one hundred and three of the acts of one thousand nine hundred and fifteen; and by chapter eighty-six of the acts of one thousand nine hundred and nineteen, be amended and re-enacted so as to consolidate into one act all legislation in reference to the independent school district of Huntington as follows:

Section 1. That part of the county of Cabell comprised within the limits fixed and described by section two of said chapter sixteen of the acts of the legislature of West Virginia, session of one thousand nine hundred and nine, as such limits are extended and enlarged by chapter sixty-seven of the acts of one thousand nine hundred and thirteen, shall constitute, be and remain an independent school district.

Sec. 2. The board of education therefor shall be a body corporate in law by the name of "the board of education of the independent district of Huntington, in the county of Cabell", and, as such, shall have perpetual succession and a seal; by that name may sue and be sued, plead and be impleaded; it may purchase, hold, sell or convey real and personal property for the use of the public schools within the said district; it may receive any gift, grant, donation or devise; it shall have the exclusive management of and be vested with the title to all real and personal property for the use of the public schools within the said district, and shall manage and dispose of the same as, in its opinion, will best subserve the interests of the said schools.

Sec. 3. The said board of education shall consist of eight persons, who shall have control of all free schools within said district. Members of said board shall be elected at the regular elec-

4 tion held in the city of Huntington for the election of municipal
5 officers for said city, and they shall hold their said offices for the
6 term of six years and until their successors shall have been elected
7 and qualified; *provided, however*, that the members of the board of
8 education of said independent district of Huntington in the county
9 of Cabell heretofore elected, pursuant to said chapter sixteen of the
10 acts of the legislature of West Virginia, session of one thousand
11 nine hundred and nine, as amended, shall continue in office and be
12 vested with all the powers and perform all the duties provided by
13 this act until the expiration of the respective terms of office of the
14 members of said board; and, *provided, further*, that at the regular
15 election to be held in the city of Huntington, in the year one thou-
16 sand nine hundred and twenty-two, for the election of municipal
17 officers for said city, four persons shall be elected as members of
18 said board for the term of six years, and thereafter in every third
19 year at the election of municipal officers for said city, four persons
20 for members of said board shall be elected for the said term of six
21 years. The nomination of candidates for the office of members
22 of said board shall be made and certified in the same manner as
23 nomination of candidates for the office of board of commissioners
24 of said city of Huntington under the provisions of the charter of
25 said city now existing, or as may be hereafter amended. Candi-
26 dates for the office of members of said board of education shall be
27 voted for, elected and the result of the election ascertained and
28 declared in the same manner and under the supervision of the
29 same authorities as provided for the election of members of the
30 board of commissioners of said city, by the charter of the said
31 city, now existing, or as the same may be hereafter amended; *pro-*
32 *vided, however*, that in no event shall there be more than two per-
33 sons elected to the office of members of said board of education
34 from the same political party; it being the intention of this act
35 to make and keep such board of education non-partisan and that
36 no political party shall at any time have on said board more than
37 one-half of the members elected thereto.

38 The term of office of the members of the said board of education
39 shall commence on the first Monday of June following their elec-
40 tion and if any member fails to qualify by making and filing the
41 oath required by section five of this act, within thirty days after
42 he shall have been declared elected, his said office shall *ipso facto*
43 become vacant. All contested elections for members of said board

44 shall be had and conducted in the same manner provided by the
45 charter of the city of Huntington now existing, or as the same may
46 hereafter be amended.

Sec. 4. Any vacancy occurring on said board of education
2 shall be filled by said board by the appointment thereto of some
3 eligible person from the same political party as that of the mem-
4 ber whose vacancy is being filled. The person so appointed shall
5 hold the said office until the next regular municipal election in the
6 said city of Huntington and until his successor for such unexpired
7 term shall have been elected at such election and shall have quali-
8 fied.

Sec. 5. Each member of the board of education shall receive
2 for his services as such member the sum of twenty dollars per
3 month. Before entering upon the discharge of the duties of said
4 office, each member shall make and file with the secretary of said
5 board, an affidavit that such member will faithfully and impar-
6 tially perform the duties of a member of said board during the
7 term of office of such member of the said board to the best of the
8 ability and judgment of said member of said board; that such
9 member will not discharge the duties of such member of said board
10 for the pecuniary or other gain or advantage of such member; nor
11 for the purposes, or with the aim in view, of benefiting any polit-
12 ical party; that such member will not be, or become interested pe-
13 cuniarily, directly or indirectly, in any contract which may at any
14 time be awarded by said board and that such member will not di-
15 rectly or indirectly receive any gift, emolument or reward for the
16 vote or influence of such member in the purchase of books or sup-
17 plies for the schools of said district; nor in the award of any con-
18 tract by said board. No person shall be eligible to hold the office
19 of member of said board who is not at the time of the election or
20 appointment of such person, a qualified voter in said city.

Sec. 6. Said board of education shall, in the month of June, in
2 every third year, beginning with the year one thousand nine hun-
3 dred and twenty-two, elect one of its members president of the
4 board. The president of said board now in office shall hold said
5 office until his successor shall have been appointed, pursuant to
6 this act. The president of said board shall perform the duties
7 usually devolving upon the presiding officer of a deliberative body
8 except that he shall have a vote upon each and every question as
9 any other member of the board, but he shall have but one vote

10 upon any one question. In his absence the board may choose a
11 president *pro tempore* from among their members.

Sec. 7. It shall be the duty of said board to appoint a secretary
2 thereof, who shall hold office during the pleasure of the board and
3 who shall receive such compensation as the board shall determine.
4 The said secretary shall record in a book provided for the purpose
5 all the official acts and proceedings of the board and the same shall
6 be a public record, open to the inspection of all persons interested
7 therein. He shall preserve in the office of said board all papers
8 containing evidences of title, contracts and obligations, and in gen-
9 eral shall record and keep on file in his office all such papers and
10 documents as may be required by any of the provisions of this act,
11 or by the order of the board of education. In the absence of such
12 secretary the board may appoint a secretary *pro tempore*. The
13 said board shall have the power to appoint and fix the compensa-
14 tion of such employees or officers of said board as, in the discretion
15 of said board may be necessary for the efficient maintenance of
16 the school system within said district provided by this act.

Sec. 8. The board of education shall hold stated meetings at
2 such times and places as they may appoint, not less than five mem-
3 bers being required to constitute a quorum for the transaction of
4 business. Special meetings may be called by the president, or
5 upon the request of two members by the secretary of said board.
6 The affirmative concurrence of five members of the board shall be
7 required to elect the superintendent of schools of said district here-
8 inafter provided for, or any teacher or other employee of said
9 board and to decide all questions involving the expenditure of
10 money.

Sec. 9. Not later than the first day of April, in each year, the
2 said board shall cause to be taken an enumeration of all the youth
3 in the said school district, as provided by chapter two of the acts
4 of the legislature of one thousand nine hundred and nineteen. The
5 state superintendent of schools in his report to the auditor shall
6 specify separately the result of such enumeration of youth in the
7 independent district of Huntington and in the remainder of Cabell
8 county, and the auditor in apportioning money for school pur-
9 poses shall apportion to said independent school district of Hun-
10 tington and to the rest of Cabell county separately, according to
11 their respective numbers of youth, as furnished by the state su-
12 perintendent. Said state superintendent shall draw his requisition

13 upon the auditor in favor of the sheriff for such amounts as said
14 independent school district of Huntington is entitled to receive and
15 at the same time shall notify the secretary of the board of edu-
16 cation of the amount. Any such amounts shall be payable into
17 the building fund of said independent school district of Hunting-
18 ton hereinafter in this act provided.

Sec. 10. The sheriff of Cabell county shall, on or before the
2 first day of July in each year, make such settlement with the board
3 of education as is provided by the general school law of this state;
4 *provided, however*, that the said sheriff shall make such settlement
5 with the secretary of the board of education of said independent
6 school district of Huntington.

Sec. 11. The said board of education shall have power and au-
2 thority and it shall be its duty, (a) to fix and determine the
3 term of school months in any year; *provided, however*, that said
4 term shall not be less than nine months; (b) to fix and determine
5 the number of days in the school months; (c) to establish, organ-
6 ize, equip and maintain such day, evening, part-time, continuation,
7 summer, kindergarten, trade and vocational schools, or classes, as
8 the said board may deem proper, and as well, such schools or
9 classes for such persons as, in the judgment of said board may re-
10 quire especial care or attention; (d) to adopt and enforce such
11 measures, as, in the judgment of said board, are calculated to fos-
12 ter, promote and provide for the health, physical training and
13 recreation of pupils within said schools, and employees of the
14 school system of such district; (e) to appoint and employ a chief
15 medical inspector for the schools of the district upon the first
16 day of July in each year, or as soon thereafter as may be prac-
17 ticable, and fix the salary of such medical inspector, and the board
18 may appoint and fix the salaries of such assistant medical and
19 dental inspectors and school nurses as may be necessary to render
20 efficient the protection of the health of the children of such school
21 district. The board shall establish such rules and regulations for
22 said medical inspection as it may deem proper and may provide
23 for necessary stationery and supplies. Said board may establish
24 and make regulations for clinics for the treatment of such physical
25 conditions as may, in the judgment of the medical examiners, re-
26 quire treatment; *provided, however*, that no child shall be com-
27 pelled to accept such medical treatment without the written con-
28 sent of the parent or guardian of such child; (f) to appoint an at-

29 tendance officer and such assistants as may be necessary and fix
30 their salaries, in order to provide for the proper execution of the
31 laws of the state compelling the attendance of children of school
32 age upon the public schools and said board shall provide rules and
33 regulations to make such work effective; (g) to vest administra-
34 tion and supervision of instruction and discipline in a superintend-
35 ent of schools, such assistant superintendents, supervisors, di-
36 rectors, principals and assistant principals as said board may deem
37-38 proper; (h) to elect such teachers, principals, directors,
39 supervisors and assistant superintendents as the board may deem
40 proper; such teachers, principals, directors, supervisors and assist-
41 ant superintendents shall be appointed by the board for the term
42 of one year, or, if elected after the beginning of any school year,
43 for the remainder of such year; *provided, however*, that said board
44 may, in its discretion, elect any such teachers, principals, direct-
45 ors, supervisors or assistant superintendents for a term of more
46 than one year, but not to exceed three years; (i) the said board
47 shall fix the compensation of such teachers, principals, directors,
48 supervisors and assistant superintendents; *provided, however*, that
49 such compensation shall not be less than the minimum compensa-
50 tion now, or hereafter, provided by the general school law of the
51 state, and such compensation shall be paid from the teachers'
52 fund of the district; (j) to make and enforce all necessary rules
53 and regulations for the government of the schools of the district;
54 for the method and time for the admission of pupils therein, and
55 for the exclusion of pupils whose attendance, in the judgment of
56 the board, would be dangerous to the health of pupils, or detri-
57 mental to the morals or discipline of the schools; (k) to prescribe,
58 upon the recommendation of the superintendent of schools, a uni-
59 form list of text books for the use of the schools in the district;
60 (l) to furnish books and stationery for the use of the schools in the
61 district, including the furnishing of books and stationery for the
62 use of children in attendance upon the schools, or upon any classes
63 in such schools, or, for the use of indigent children in attendance
64 upon the schools, or any classes thereof, as the board may deter-
65 mine; (m) to establish teachers' institutes, to be held at such time,
66 either during or prior to the school year, and for such duration as
67 the board may determine, and to pay out of the building fund
68 hereinafter provided, such compensation to those in attendance
69 thereat as the board may determine; (n) to exercise exclusive con-

70 trol over the public library of the city of Huntington, and all
71 branches of said library, and to provide for the maintenance there-
72 of; (o) to establish and maintain branches of said public library;
73 (p) to purchase, acquire and control such grounds as, in the judg-
74 ment of the board, may be necessary or proper for the efficient work
75 of the school system within said district; (q) to purchase, acquire,
76 build, construct, repair, remodel, enlarge, equip, furnish and
77 maintain such buildings as the board may deem necessary or
78 proper for the efficient work of such school system within said dis-
79 trict; (r) to make such provision and incur such expense, as, in
80 the judgment of the board, is necessary for the conveyance of pu-
81 pils to and from the schools of the district; (s) to exercise such
82 further powers and perform such further duties as are provided by
83 this act, as, in the judgment of said board, may be necessary or
84 proper for the efficient maintenance and upbuilding of the school
85 system of said district.

• Sec. 12. A superintendent of schools of said district shall be
2 elected by said board of education at any time after the first of
3 January, and prior to the first of March in any year. Such su-
4 perintendent of schools shall be elected for a term of one year;
5 *provided, however*, that the board of education may, in its judg-
6 ment, elect such superintendent of schools for a term of more than
7 one year, but not to exceed five years. The compensation of said
8 superintendent of schools shall be fixed by the board of education.
9 Said superintendent of schools shall be a graduate of some well-
10 recognized college or university; he shall have had at least ten
11 years experience in the work of teaching, five years of which shall
12 have been in the capacity of school principal or school supervisor.
13 The said superintendent of schools may be removed by said board
14 of education because of immorality, incompetency, gross neglect
15 or malperformance of duty; *provided, however*, that said superin-
16 tendent of schools shall not be removed by said board until he has
17 had at least ten days notice in writing of the charges alleged
18 against him as grounds for such removal, and the time and place
19 set by the board for a hearing upon such charges. At such hearing
20 the said superintendent of schools shall have the right to appear,
21 both in person and by counsel, and he shall have the right to cross-
22 examine the witnesses introduced in support of such charges and
23 to introduce such evidence as he may desire. The said superin-
24 tendent of schools shall be the chief executive officer of said board

25 of education. All reports and recommendations of all employ-
26 ees of the school system shall be made to said superintendent, and
27 through the superintendent to the board of education. Said super-
28 intendent of schools, with the approval of the committee on teach-
29 ers, shall nominate to the board of education all members of the su-
30 pervisory or instructional force of said school system, who shall
31 hold the certificates provided by section thirteen of this act, and
32 shall recommend to said board the salaries to be paid to all mem-
33 bers of such force. Said superintendents of schools shall keep him-
34 self constantly acquainted with the condition of the schools, and
35 shall make needful recommendations to the board of education for
36 the efficient working of the school system within said district. Said
37 superintendent of school shall have final jurisdiction, subject only
38 to appeal to the board of education, in all matters of instruction,
39 discipline and supervision arising in the schools, or any part of the
40 school system. Said superintendent shall recommend to the board
41 of education the adoption of text books and courses of study. Said
42 superintendent of schools shall fix and determine the method and
43 conditions of promotion of pupils within such schools, and his de-
44 cision in such regard shall be final; he shall conduct teacher's in-
45 stitutes for such district, and secure instructors therefor; he may
46 call meetings of the teachers, principals, supervisors and all mem-
47 bers of the school system, for discussion of matters pertaining to
48 the work of the school, or of education in general and may re-
49 quire the opinion or advice of any member or members of such
50 school system. Said superintendent of school shall have such
51 further powers and perform such other duties as may from time
52 to time be determined by the board of education.

Sec. 13. Between the first day of January and the first day
2 of March, in each year, the said board shall appoint a board of ex-
3 aminers, consisting of four members, one of whom shall be the
4 superintendent of schools of said district. It shall be the duty of
5 said board of examiners to issue certificates to teachers, principals,
6 supervisors, directors, and assistant superintendents based upon the
7 examination to be held and conducted in each year by the said
8 board of examiners, at such time and according to such rules and
9 regulations as said board of education may prescribe. The said
10 certificates shall be of the following classes: (a) supervisory; (b)
11 primary (grades one, two and three); (c) elementary or interme-
12 diate (grades four, five and six); (d) secondary or high school
13 (grades seven, eight, nine, ten, eleven and twelve); (e) special (for

14 certain subjects and special kinds of work); (f) kindergarten.
15 Such certificates may be issued for one, three or five years, as may
16 be prescribed by the rules and regulations of said board of educa-
17 tion at any time in force governing such board of examiners, and
18 may be renewable, as such rules and regulations may prescribe.
19 Upon recommendation by the superintendent of schools of said
20 district the board of examiners, by their unanimous vote, may,
21 without examination, (or with such partial examination as may be
22 deemed advisable), issue certificates of any of the classes hereinbe-
23 fore enumerated, to such persons as have completed in educational
24 institutions such courses, as, in the judgment of said board of ex-
25 aminers, may qualify said persons as teachers for the schools of
26 the district. Said certificates may be issued to any person hold-
27 ing a certificate issued by the state of West Virginia, by other
28 school districts within the said state, or issued by another state, or
29 upon a diploma from the West Virginia university, or from any
30 institution of equal rank. Only persons holding certificates is-
31 sued in duplicate by said board of examiners shall be employed by
32 the said board in the instructional or supervisory departments of
33 the school system; *provided, however*, that the superintendent of
34 schools of said district and the members of the said board of exam-
35 iners shall not be required to obtain any certificate. Each mem-
36 ber of said board of examiners shall receive such compensation as
37 the board of education may determine.

Sec. 14. Said board of education shall hold a session on the
2 second Tuesday in August, in each year, for the transaction of
3 business generally, and especially for the transaction of business
4 required by this section. At such session the said board shall as-
5 certain the condition of the fiscal affairs of the district, and make
6 up an itemized statement thereof, distinguishing between the va-
7 rious funds hereinafter provided, which statement shall set forth
8 in detail:

9 *First:* Separate amounts due the various funds of the district,
10 and the amounts that will become due and collectible during the
11 current fiscal year, except from the levy of taxes to be made for
12 the year.

13 *Second:* The debts and demands owed by the district, and the
14 debts and demands that will become due and payable during the
15 current fiscal year, including interest on any indebtedness, funded,
16 bonded or otherwise.

17 *Third:* All other expenditures under the several heads of ex-
18 penditures, to be made and payable out of the levy of the dis-
19 trict for the current fiscal year, with proper allowances for delin-
20 quent taxes, exonerations and contingencies. Said statement
21 shall also set forth the separate amount necessary to be raised for
22 each fund by the levy of taxes for the current fiscal year, the pro-
23 posed rate of such levy in cents on each one hundred dollars as-
24 sessed valuation of the taxable property in the district for each
25 of such funds, and the separate and aggregate amounts of the as-
26 sessed valuation of real estate, personal property, and public util-
27 ity property assessed by the board of public works. A copy of
28 such statement duly certified by the secretary of the board shall im-
29 mediately be forwarded to the state tax commissioner, and said
30 statement shall, before the next meeting of the board, be published
31 once in two newspapers of opposite politics in the county, if there
32 be two such newspapers of general circulation in the county. If
33 there be but one newspaper published in the county, the publica-
34 tion shall be made therein. The session shall then stand ad-
35 journed until the fourth Tuesday in August, at which time it
36 shall reconvene and proceed in all respects as hereinafter pro-
37 vided. After having entered the statement as finally approved in
38 its books of record or proceedings, the board shall thereupon levy
39 as many cents on each one hundred dollars assessed valuation of
40 the taxable property in the district, according to the last assess-
41 ment thereof, as will produce the amounts shown by the statement
42 approved to be necessary, as follows:

43 (a) For teachers' fund purposes a levy sufficient to maintain
44 elementary and high schools of the district for a minimum term
45 of nine months, or such longer term as the board of education may
46 determine and to maintain such other schools as may be established
47 and maintained by said board under the provisions of sub-section
48 (c) of section eleven of this act.

49 (b) For building fund purposes a levy not to exceed fifty cents,
50 which fund shall be used for the maintenance of buildings for the
51 purposes of purchasing lands and the erection of buildings thereon;
52 for the purchase and remodeling of buildings; for building addi-
53 tions to school houses; for furnishing and equipping the same, and
54 for all other expenses attending the efficient management and main-
55 tenance of said school system, not included within the purposes for
56 which the teachers' and interest and sinking fund levies are provid-
57 ed by this act. Where exigencies exist for additional housing, said

58 building fund levy not being sufficient to provide for the same, and
59 to provide sufficient funds for the other purposes for which said
60 levy is laid, an additional levy hereunder may be laid, not to ex-
61 ceed twenty-five cents, but such levy shall not be made until the
62 same shall have been first approved in writing by the state superin-
63 tendent of free schools and by the state tax commissioner.

64 (c) For interest and sinking fund purposes the levies heretofore
65 lawfully authorized for the payment of the interest and to provide
66 a fund for the retirement at maturity of the present outstanding
67 bonded indebtedness of said district and such levies for like pur-
68 poses as may hereafter be lawfully authorized pursuant to this act.

69 Within three days after the said board has laid the levies for the
70 various funds hereinbefore provided, it shall be the duty of the
71 secretary of the board to forward a certified copy of orders laying
72 the levies to the state tax commissioner and to the clerk of the
73 county court of Cabell county, and the assessor of said county, and
74 the rate of levy for all funds and the total value of real and per-
75 sonal property in said district to the state superintendent of free
76 schools and the auditor of the state, and it shall, thereupon, be
77 the duty of the proper county officers to extend on the land and
78 personal property books the amount of taxes levied aforesaid,
79 which taxes the sheriff shall collect and account for as required by
80 law.

Sec. 15. Said board of education may borrow money, and is-
2 sue bonds therefor, for the purpose of purchasing school sites and
3 erecting, completing, enlarging, repairing, or furnishing school
4 buildings in such district; *provided, however*, that no such debt
5 shall be contracted under this section, unless all questions con-
6 nected therewith shall have been first submitted to a vote of the
7 people of such district at a general or special election and have re-
8 ceived a majority of three-fifths of all the votes cast for and against
9 the same, and, *provided, further*, that no debt shall be contracted
10 under this section which shall, including existing indebtedness, in
11 the aggregate exceed five per centum of the value of the taxable
12 property in such district, as ascertained by the last assessment
13 for state and county taxes; nor without at the same time sub-
14 mitting to the voters of such district at the election held for the
15 purpose of authorizing bonds, the question of authorizing a special
16 levy sufficient to pay the interest annually on all the outstanding
17 bonds and to retire the same at maturity. If said board creates

18 in the future such bonded indebtedness, the board shall enter an
19 order on its record book of proceedings setting forth the maximum
20 rate of levy necessary in each year to pay the interest and provide
21 a sinking fund to discharge the principal of the bonds at maturity,
22 and in the same order submit to the voters of said district at the
23 election held for the purpose of authorizing such bond issue, the
24 question of such levy. At such election there shall be printed on
25 the ticket a brief statement of the levy herein provided for, such as
26 "To authorize a maximum of special bond levy of cents
27 to pay the interest and cents to provide a sinking fund for
28 the discharge of the principal of the bonds now being voted for ac-
29 cording to the order of the board of education of the independent
30 district of Huntington, in the county of Cabell, entered on the. . .
31 day of," and directly underneath in two separate lines shall
32 be printed the words "For the levy" and "Against the levy". In all
33 respects the provisions of the law concerning general elections shall
34 apply to such elections as far as they are practicable. If the ma-
35 jority of the votes cast at such election be in favor of said levy,
36 said board shall have authority to lay such maximum levy and may
37 continue to lay the same, or such portion thereof as is necessary,
38 from year to year, without an additional vote, until said bonded
39 indebtedness is liquidated. But the funds arising from such levy
40 shall be used for the purposes for which levied and none other.

41 Said bonds shall not be issued for a longer period than thirty-
42 four years, nor shall they be sold for less than their par value, nor
43 bear interest at a greater rate than six per centum. The said
44 board may, in its discretion, issue such bonds, payable either (a)
45 all thereof payable in such number of years less than thirty-four
46 years from the issuance thereof, as the board may determine; or,
47 (b) serially in equal installments, such respective installments be-
48 ing payable in such number of years, respectively, as the board may
49 determine. The resolution authorizing such borrowing of money
50 and issuance of bonds, shall contain a statement of the time of the
51 maturity of said bonds.

52 The interest hereafter accruing under the general law of this
53 state upon the proceeds of bonds hereafter issued, and upon any
54 sinking fund heretofore or hereafter provided by said independent
55 district of Huntington in the county of Cabell, for the payment of
56 the interest on and the retirement at maturity of, its bonded in-
57 debtedness, shall not go into the treasury of the county of Cabell,

58 but the interest on all moneys arising from such sources shall be
59 and become the property of said school district and be so credited
60 by the sheriff of Cabell county.

Sec. 16. The said board of education shall have full power to,
2 in any manner, co-operate with the authorities of the nation, state,
3 county, other districts and cities, for the advancement of the in-
4 terests of the public schools of said district.

Sec. 17. The superintendent of schools of said district shall
2 determine what schools in the district pupils shall attend. Upon
3 the written request of any parent, guardian or other person legally
4 responsible for any pupil or pupils, the said superintendent of
5 schools may transfer such pupils to another school in the district,
6 or to a school in an adjoining district, or independent district, if
7 it can be shown to such superintendent that such pupils would be
8 better accommodated at such other school. Any person aggrieved
9 by the action of such superintendent of schools regarding such
10 application for transfer of pupils may appeal to the board of ed-
11 ucation, whose decision shall be final. The board of education
12 shall have the right, in its discretion, to receive pupils from other
13 districts, or independent districts in the state, and to charge such
14 pupils from other districts or independent districts in the state
15 such tuition as the board shall determine, and all amounts received
16 from such tuition shall be paid by the board to the sheriff of the
17 county and be credited by him to the building fund of such district.
18 Except as otherwise in this section provided, no person shall be ad-
19 mitted into the schools of said independent district of Hunting-
20 ton, who is not a resident of such district.

Sec. 18. Said board of education shall have authority to estab-
2 lish a teachers' retirement fund for the teachers of the district, and
3 to maintain the same out of the teachers' fund of the said district.
4 The administration of such fund shall be in accordance with the
5 rules of the board of education relative thereto; *provided, however,*
6 that such rules and regulations shall be general in their nature
7 and non-discriminatory in their operation.

Sec. 19. White and colored people shall not be taught in the
2 same school, or in the same building, but it shall be the duty of
3 the board to establish one free school, or more, if necessary, for
4 the accommodation of the colored persons of school age.

Sec. 20. The assessor of Cabell county shall make out and de-
2 liver to the secretary of said board on or before the second Tues-

3 day in August, of each year, a certificate showing the aggregate
4 value of all personal property and real estate in such district. If
5 such assessor fails to perform the duty required of him by this sec-
6 tion, he shall be guilty of a misdemeanor and upon conviction
7 thereof shall be fined twenty dollars.

Sec. 21. Each teacher in the schools of said district shall stand
2 in the place of the parent or guardian in exercising authority over
3 the school, and shall have control of all of the children enrolled
4 in the school from the time they reach the school until they have
5 returned to their respective homes, except that where transportation
6 of pupils is provided by said board, the person in charge of such
7 conveyance shall exercise such authority and control over the chil-
8 dren while they are in transit to and from the school.

9 Upon the recommendation of any medical inspector of schools
10 the principal of any school in said district shall exclude from the
11 school any pupil or pupils known to have, or suspected of having,
12 any contagious or infectious disease, or any pupil or pupils who
13 have been exposed to such disease. And any pupil so excluded
14 shall not be re-admitted to the school by the principal until such
15 pupil has presented a certificate of health signed by a medical in-
16 spector of schools.

17 The principal of every school within said district shall also have
18 the authority to suspend any pupil for disorderly, refractory, inde-
19 cent or immoral conduct, and the superintendent of schools may
20 expel or exclude any such pupil, if, on investigation, the conduct of
21 such pupil is found to be detrimental to the progress and the gen-
22 eral conduct of the school; *provided, however*, that any person ag-
23 grieved by any such expulsion shall have power to appeal from the
24 decision of said superintendent of schools to the board, whose de-
25 cision shall be final.

Sec. 22. No teacher, superintendent, supervisor, principal, or
2 other person actively engaged in school work in said district shall
3 be required to serve on any jury during the period of his con-
4 tract with the board of education.

Sec. 23. All teachers and other employees of the board shall be
2 paid for their services monthly, or, in the discretion of the board,
3 at more frequent intervals.

Sec. 24. Disbursement of the funds of said district shall be
2 made by order drawn upon the sheriff and signed by the president
3 and secretary of said board.

Sec. 25. Sections fifty-one, one hundred and twenty-two, one hundred and twenty-three, one hundred and twenty-five, one hundred and twenty-six, one hundred and twenty-seven, one hundred and twenty-eight, one hundred and twenty-nine, and one hundred and thirty, of chapter two, of the acts of the legislature of West Virginia, session of one thousand nine hundred and nineteen shall be applicable within said district; except that the juvenile court now existing in Cabell county or any court of like nature hereafter established shall have concurrent jurisdiction with justices of the peace as to any violation of the provisions of either of the sections of the said act of the legislature one thousand nine hundred and nineteen in this section mentioned.

Sec. 26. The provisions of the general school law of this state not by the terms of this act made applicable to said independent district of Huntington, shall not be regarded as applicable to said district.

Sec. 27. All acts and parts of acts inconsistent with the provision of this act are hereby repealed.

House Bill No. 462

(House Bill No. 462—Mr. Flynn.)

AN ACT to authorize and permit the board of education of Kingwood district, Preston county, to lay an additional building fund levy.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Kingwood district of Preston county, be, and the same is hereby, authorized and empowered to lay a levy of not exceeding sixty cents on the hundred dollars valuation of all taxable property in said district for the purpose of repairing buildings now existing and erecting new school buildings in said district. Said levy to be in addition to all other levies now allowed by law for building fund purposes and to be levied only for the year of one thousand nine hundred and twenty-one, and in like manner as the regular building fund levy.

House Bill No. 495

(House Bill No. 495—Mr. Satterfield.)

AN ACT to enlarge the boundaries of Union independent school district in the county of Marion.

Be it enacted by the Legislature of West Virginia:

Section 1. That all of the territory lying and being in Union district, in Marion county within the following described boundary be added to and be included in Union independent school district, to-wit:

Beginning at a corner to lands of F. B. Bartholow, and in a line of the J. O. Watson land and also in the present eastern line of the present boundary of Union independent school district, and running thence with the present line of said district to the end of the Bartholow lands at the county road; thence N. 58 degrees E. to the Josie Hamilton and Howard Smouse property; thence N. 53° 15' E. to two wild cherry trees on the ridge above Owens Glass Works; thence N. 45° E. crossing the new Hopewell road to a point on the north east side thereof; thence leaving the present boundary lines of said district, and running in a southerly direction along and on the northeast side of said new Hopewell road, and thence with said road to the Grafton pike, near the residence of J. W. Satterfield; thence with said pike to Stony road; thence with Stony road to a corner of B. B. Bartholow's land, and thence with his line and including his land to the beginning.

House Bill No. 500

(House Bill No. 500—Mr. Thompson.)

AN ACT to re-establish the independent school district of Belington, Barbour county, and to repeal chapter twenty, acts of the legislature of West Virginia of one thousand eight hundred and ninety-three, and all conflicting acts relating thereto.

Be it enacted by the Legislature of West Virginia:

Section 1. That in case a majority of the votes cast at the election hereafter provided for be in favor thereof, all the following described territory in Barker and Valley districts, including the city of Belington, shall be an independent school district, to be known as "The independent school district of Belington," to-wit: All the territory that is now within the incorporated por-

7 tion of the city of Belington described as follows: Beginning at a
8 red oak on the west bank of the Tygarts Valley river, a corner to
9 the lands of Joseph Teter's heirs and Valley Coal and Coke com-
10 pany, and running south $25^{\circ} 30'$ east 57.75 perches to a stake on
11 the Buckhannon road, corner to Valley Coal and Coke company,
12 thence with the said road south $35^{\circ} 30'$ west 51.15 perches to a
13 white oak; thence south 66° west 21 perches to a stake, thence
14 south 56° west 28.25 perches to three chestnuts corner to Laura
15 Hathaway and the Tygarts Valley Mineral and Oil company,
16 thence south $45^{\circ} 30'$ east 18 perches with said line;
17 thence south $56^{\circ} 30'$ east 4.50 perches with said line, thence
18 north $44^{\circ} 30'$ east 9.25 poles with said line, thence south 37°
19 east 25.25 perches with said line, thence south $30^{\circ} 45'$ east 12
20 perches with said line to a white oak, thence south 5° east 10.50
21 perches with said line to a beech, thence south $14^{\circ} 30'$ west 25.75
22 perches with said line to a sassafrass; thence south 40° west 7.50
23 perches with said line to a stake with locust pointers, corner to
24 heirs of Jesse Teter, thence with their line south $82^{\circ} 15'$ east 10
25 perches to a beech and birch, corner to Charles Keiser, thence with
26 his lines south 7° west 48 perches to a white oak stump on the bank
27 of Big Run, corner to the heirs of Jesse Teter and said Keiser,
28 thence with their line south $76^{\circ} 15'$ east 150 perches to a stone on
29 the east side of the county road, corner to the heirs of Jesse
30 Teter, thence with their line south 23° west 58 perches to a stone
31 in the river opposite the old Robenberger mill site, corner to the
32 heirs of Jesse Teter and H. A. Monahan, thence up the Valley
33 river with its meanderings at the water's edge, south $52^{\circ} 31'$
34 west 29.60 perches, thence south $5^{\circ} 30'$ east 261.76 perches, thence
35 south 32° east 36.60 perches, thence south $47^{\circ} 30'$ east 13.80
36 perches, thence south 81° east 21.81 perches, thence north 80° east
37 28.32 perches, passing the south bend of the Roaring creek and
38 Belington railroad bridge, thence south $80^{\circ} 30'$ east 9.32 perches,
39 thence south $33^{\circ} 30'$ east 9.68 perches, thence crossing the said
40 river, north $87^{\circ} 15'$ east 13 perches to a stake at the culvert on
41 the east side of the said river on the West Virginia Central and
42 Pittsburg railway; thence south $49^{\circ} 15'$ east 38.74 perches to a
43 stake at Hillyard's field near a line of the Belington Industrial
44 Company, thence south $88^{\circ} 30'$ east 47.88 perches to a stake,
45 thence south $89^{\circ} 40'$ east 24.24 perches to a stake, thence north
46 $79^{\circ} 30'$ east 110 perches to a stake at the old road, corner to

47 Luther and John Hillyard on the old road crossing the mountain,
48 thence with said road north $18^{\circ} 45'$ west 28.18 perches to a
49 stake, corner to G. J. Stalnaker and W. S. Phares' place, thence
50 with the said Stalnaker and Phares' line, north $55^{\circ} 30'$ east 71
51 perches to a stake at the Fairmont and Beverly pike, corner to
52 the said Phares and Stalnaker and W. S. Shurtleff, thence with
53 said pike north $17^{\circ} 30'$ west 75 perches, thence north 3° east 33
54 perches, thence north $25^{\circ} 30'$ west 28 perches, thence north 44°
55 $30'$ west 17 perches, thence north $25^{\circ} 30'$ west 20 perches to
56 corner of J. W. Ward and J. W. Shurtleff, thence leaving the pike
57 and running with said Ward's line, north $14^{\circ} 30'$ east 39.14
58 perches to a stake, corner to Shurtleff and Ward, thence with
59 said Shurtleff's line north 72° east 39 perches to a locust, cor-
60 ner to Shurtleff, thence north 42° east 97 perches to a stake, cor-
61 ner to Shurtleff and T. T. Elliott, thence south 10° west 6.
62 perches to a stone, corner to Shurtleff and T. T. Elliott, thence
63 north 52° east 67 perches to a white oak, corner to Serpell and
64 Elliott, thence $43^{\circ} 30'$ west 18.80 perches to a gum, corner to
65 Dunham and Elliott, thence with Dunham and Elliott's line north
66 $56^{\circ} 30'$ west 120 perches to a white oak corner to Dunham, north
67 66° west 14.28 perches to a stake, north 6° east 5 perches to a
68 stake at the Morgantown pike, thence north 47° west 71.45 perches
69 to two black walnuts in Martha Davis' field, thence north 63° west
70 99.60 perches to a chestnut in J. W. Thornhill's field thence south
71 83° west 84.36 perches to a walnut in J. W. Thornhill's field,
72 south 11° west 24.24 perches to a stake at the Fairmont pike, thence
92 BELINGTON INDEPENDENT SCHOOL DISTRICT [CH. 33
73 north $80^{\circ} 30'$ west 30 perches to a large maple on the south side
74 of the pike, thence south $86^{\circ} 30'$ west 52.12 perches to a stake
75 in the Rohrbaugh's field, thence south 77° west 128.84 perches,
76 to a large maple on the south side of the Baltimore and Ohio
77 railroad, thence south 72° west 30' perches, crossing the Tygarts
78 Valley river to the beginning, containing 1,300 acres.

Sec 2. At the election in the year one thousand nine hun-
2 dred and twenty-two, held for county superintendent and other
3 school officers, to be held in pursuance of law, it shall be the
4 duty of the boards of education of said Barker and Valley
5 districts and the independent school district of Belington to
6 submit to the voters residing in said Barker, Valley and Beling-
7 ton independent school districts, the question of the adoption or
8 rejection of the provision of this act. Those voting in favor

9 of the re-establishment of said independent district shall have
10 written or printed on their ballots. "For the re-establishment of
11 Belington independent school district," those voting against the
12 re-establishment thereof shall have written or printed on their
13 ballots the words, "Against the re-establishment of Belington
14 independent school district." The election shall be conducted
15 and the results ascertained and declared by the same officers
16 conducting the election for county superintendent and other
17 school officers on that day.

Sec. 3. At the general election in one thousand nine hun-
2 dred and twenty-two there shall be elected by the legal voters
3 residing in the boundaries of said territory of said proposed in-
4 dependent school district, a board of education for said inde-
5 pendent school district consisting of three members who shall
6 be a corporation by the name of the board of education of the
7 independent school district of Belington, and by that name may
8 sue and be sued, plead and be impleaded, contract, purchase
9 and hold so much real and personal property as may be neces-
10 sary for the purpose of this act; and without any transfer or
11 conveyance they shall be deemed the owners of all real and per-
12 sonal property within the territory aforesaid, now held or owned
13 for free school purposes; and they shall have the powers, per-
14 form all the duties, and at the said election a president and one
15 commissioner shall be elected for the term of four years and one
16 commissioner for the term of two years; in the general election
17 of one thousand nine hundred and twenty-four, one member
18 shall be elected whose term of office shall be four years, then at
19 each general election thereafter one or two members shall be
20 elected for the offices expiring in their order whose term of office
21 shall be four years. The oldest member in point of service
22 shall be chosen president of said board, *provided*, that by unani-
23 mous vote of the said board another member may be chosen the
24 president. In case of a tie vote for this office or should a vacancy
25 occur the office shall be filled as provided in the general law.

Sec. 4. The said board of education at their first meeting
2 after their election shall appoint a secretary, who shall not be a
3 member of the board; who shall perform all the duties of a
4 secretary of a board of education prescribed in the general school
5 law; and in addition thereto shall make an enumeration of
6 youths of the said independent school district, between the ages

7 of six and twenty-one years of age, at the time required by the
8 general school law, and according to the provisions therein con-
9 tained, in relation to making an enumeration of youths. The
10 salary of said secretary shall be fixed by the board to be paid
11 out of the building fund for the said independent school district.

Sec. 5. It shall be the duty of the board of education of the
2 said independent district to hold their annual meeting and other
3 meetings in accordance with the general law.

Sec. 6. In levying taxes for school purposes to, said board of
2 education shall be governed in every respect by the provisions of
3 the general law.

Sec. 7. The board of education of said independent school
2 district shall be empowered, any time within three years from
3 the passage of this act, to issue bonds for the purpose of erect-
4 ing public school buildings for use of said independent school
5 district. Said bonds shall draw no greater rate of interest
6 than six per cent, per annum, and shall be made payable in not
7 less than one and not exceeding twenty years; *provided*, that
8 such indebtedness shall not exceed five per cent of the value of
9 the taxable property in said independent school district to be
10 ascertained by the last assessment made for state and county
11 taxes, next before the incurring of said indebtedness; nor with-
12 out, at the same time, providing for the collection of a direct
13 annual tax sufficient to pay annually the interest on such in-
14 debtedness, and the principal thereof within and not exceeding
15 twenty years; and *provided, further*, that no debt shall be con-
16 tracted under this act unless all questions connected with the
17 same shall have first been submitted at a general school election,
18 in the manner prescribed by law, to a vote of the people resi-
19 dent in the territory of said proposed independent school dis-
20 trict, and have received three-fifths of all the votes cast for
21 and against the same. The said election shall be held at the
22 same time and place by the officers of the election of common
23 school officers.

Sec. 8. Chapter twenty of the act of one thousand eight
2 hundred and ninety-three or other acts or parts of acts incon-
3 sistent with this act are hereby repealed when this becomes ef-
4 fective upon the election and qualification of the new board to
5 be elected as provided herein.

House Bill No. 534

(House Bill No. 534—Mr. Stathers.)

AN ACT to amend and re-enact section two of chapter ninety-two of the acts of the legislature of West Virginia of one thousand eight hundred and sixty-seven, as amended by chapter forty-seven of the acts of the legislature of West Virginia of one thousand eight hundred and sixty-eight, as amended by chapter thirty-eight of the acts of the legislature of West Virginia of one thousand eight hundred and ninety-nine, relating to the school district of Clarksburg.

Be it enacted by the Legislature of West Virginia:

That section two of chapter ninety-two of the acts of the legislature of West Virginia of one thousand eight hundred and sixty-seven, as amended by chapter forty-seven of the acts of the legislature of West Virginia of one thousand eight hundred and sixty-eight, as amended by chapter thirty-eight of the acts of the legislature of West Virginia of one thousand eight hundred and ninety-nine, be amended and re-enacted so as to read as follows:

Section 2. (a) The board of education of said district shall consist of three members who shall be elected by the qualified voters resident therein, and no two of whom shall reside in the same ward in the city of Clarksburg, West Virginia, while serving as a member of said board. They shall be vested with the same rights, exercise the same powers, perform the same duties and be governed by the same laws by which boards of education elsewhere in the state of West Virginia are or may hereafter be governed except insofar as modified by the provisions of this act.

(b) The members now constituting the board of education of said district shall continue in office until the expiration of the respective terms for which they were elected. The qualified voters of said district at the election to be held for elective city officers of the city of Clarksburg on the third Tuesday in April, one thousand nine hundred and twenty-one, shall elect one member of said board of education who shall serve for the term of six years beginning on the first day of July, one thousand nine hundred and twenty-one.

(c) At the city election to be held on the third Tuesday in April, one thousand nine hundred and twenty-three, there shall be elected two members of said board of education. The candidate receiving the highest number of votes cast at said election for a

22 member of the board of education shall serve for the term of six
23 years, and the candidate receiving the next highest number of votes
24 cast at said election for a member of the board shall serve for the
25 term of two years beginning on the first day of July, one thousand
26 nine hundred and twenty-three; and bi-ennially thereafter there
27 shall be elected one member of said board of education to serve for
28 a term of six years beginning on the first day of July next following
29 the date of election.

30 (d) The vacancy caused by the expiration of the term of Rob-
31 ert M. Morris on June thirtieth, one thousand nine hundred and
32 twenty-two, shall be filled by appointment by the remaining mem-
33 bers of the board of a member who shall serve until the thirtieth
34 day of June, one thousand nine hundred and twenty-three.

35 (e) Said elections shall be conducted by the officers who shall
36 conduct the city elections for the city of Clarksburg without addi-
37 tional compensation, and in all respects said elections shall be a
38 part of the city elections; *provided*, that all the qualified voters of
39 said school district residing within the corporate limits of said city
40 shall vote for a commissioner or member of the board of education
41 in their respective precincts or wards of said city, but no person re-
42 siding in said city and outside the limits of said school district
43 shall be permitted to vote for a commissioner or member of the
44 board of education; and *provided, further*, that all the qualified
45 voters of said school district residing outside the corporate limits
46 of said city shall vote for a commissioner or member of the board
47 of education at the office of the city council. Separate ballots, poll
48 books and ballot boxes shall be supplied by the board of education
49 for taking the votes for a commissioner or member of the board of
50 education at the several voting places in said city, but within said
51 school district only.

52 (f) The commissioners of election shall certify the result of the
53 balloting for a member or members of the board of education of
54 Clarksburg school district to said board, and the said board shall
55 issue a certificate of election to the person or persons entitled there-
56 to within five days after any election. In case of a tie in the vote
57 for a member of the board of education, the persons so tying shall
58 decide which shall be entitled to the office by casting lots. All
59 contests concerning the election of a member of a board of educa-
60 tion shall be heard and determined by the board.

61 (g) All candidates for membership of the board of education
62 shall be chosen at the primary election to be held for the purpose of
63 nominating candidates for city offices in the city of Clarksburg.
64 Such primary elections shall be conducted by the election officers
65 appointed by the city council, and as far as applicable in other re-
66 spects in the same manner as provided herein for the election of a
67 commissioner or member of the board of education. In taking the
68 vote for candidates for membership of the board of education a
69 separate ballot from that used for nominating candidates for city
70 officers shall be used.

71 (h) The ballot commissioners for the city of Clarksburg shall
72 cause to be printed and supplied at the respective voting places bal-
73 lots to be used in primary elections and in general elections for the
74 nomination and election of members of the board of education of
75 said Clarksburg school district, the expense thereof to be paid by
76 said school district.

House Bill No. 535

(House Bill No. 535—Mr. Bender.)

AN ACT abolishing the independent school district of Burnsville, in
the county of Braxton, and the corporation of the board of educa-
tion of the independent school district of Burnsville.

Be it enacted by the Legislature of West Virginia:

That the independent school district of Burnsville, be abolished and
the real and personal property belonging thereto transferred in the
manner hereinafter set forth:

Section 1. Chapter nineteen of the acts of the legislature
2 of West Virginia, regular session, for the year one thousand nine
3 hundred and five entitled "An act to establish the independent
4 school district of Burnsville in the county of Braxton, in the state
5 of West Virginia, is hereby repealed, and the corporation created
6 by said act called "the board of education of the independent school
7 district of Burnsville is hereby dissolved."

Sec. 2. All property, real and personal, except money and un-
2 collected levies, belonging to the independent school district of
3 Burnsville, or the board of education of the independent school dis-
4 trict of Burnsville, shall, upon the going into effect of this act, be
5 and become the property of the board of education of Salt Lick

6 district, Braxton county, West Virginia, to be used by said board
7 for school purposes under the laws of this state.

Sec. 3. All money, and the proceeds from all levies uncollected,
2 owned by or due to the independent school district of Burnsville, or
3 the board of education of the independent school district of Burns-
4 ville, shall, upon the going into effect of this act, be transferred to
5 the board of education of Salt Lick district, Braxton county, West
6 Virginia; and shall be applied, so far as the same may legally be
7 done to carry out the contracts made by the board of education of
8 the independent school district of Burnsville for the school year
9 ending June thirtieth, one thousand nine hundred and twenty-one;
10 and all other money and levies so transferred shall be applied to the
11 payment of any existing indebtedness against the independent
12 school district of Burnsville, or the board of education of the inde-
13 pendent school district of Burnsville, in the same manner as the
14 said district and board would have been required to apply the same
15 but for the passage of this act.

Sec. 4. In the event the money and levies transferred to the
2 board of education of Salt Lick district are not sufficient to pay all
3 indebtedness against the independent school district of Burns-
4 ville, and the board of education of the independent school dis-
5 trict of Burnsville, bonded and otherwise, the said board of edu-
6 cation of Salt Lick district is hereby authorized, empowered and di-
7 rected to lay and collect, in the manner prescribed by law, such
8 levies upon the real and personal property within the limits of the
9 independent school district of Burnsville, as now constituted, as
10 may be necessary to pay such indebtedness; such levies to be im-
11 posed within the limits permitted by existing law, and in such
12 manner as to comply with the terms of any bonds issued and sold
13 by the independent school district of the town of Burnsville, or the
14 board of education of the independent school district of Burns-
15 ville.

House Bill No. 287

(Committee Substitute for House Bill No. 287.)

(By Committee on Taxation and Finance.)

AN ACT to establish a high school in the county of Wayne, state of
West Virginia, and to provide for a special levy and a board of
trustees for the same.

Be it enacted by the Legislature of West Virginia:

Section 1. The presidents of the boards of education of Union district, Lincoln district, Butler district, Stonewall district and Grant district, together with the county superintendent of schools of said county shall constitute a Wayne county board of education for said high school. The county superintendent shall be *ex officio* member of said board, and a president and secretary of said board shall be appointed by said board at its first regular meeting of each year.

Sec. 2. The said Wayne county high school board of education shall be a body corporate, and as such shall have and exercise all the rights and powers now conferred by law on district boards of education.

Sec. 3. Said board of education shall as soon as practicable after the passage of this act, purchase a site in a convenient and suitable location in or near the town of Wayne and shall erect thereon suitable buildings and shall establish therein a county high school to be opened without cost free of tuition to all pupils who are qualified according to law to enter said high school in said Wayne county, and is to be known as the Wayne county high school.

Sec. 4. For the purpose of purchasing a site and for erecting and equipping a building or buildings for said county high school, the said board of education as aforesaid is hereby empowered and directed to lay a levy of not more than twenty cents on each one hundred dollars valuation of taxable property in said districts for three successive years, beginning with the year one thousand nine hundred and twenty-one.

Sec. 5. Beginning with the year in which said county high school is ready to open, and annually thereafter, the board as aforesaid shall have the authority to lay for the support and maintenance of high school a levy not to exceed ten cents on each one hundred dollars valuation of all the taxable property in said district for a maintenance building fund, and a levy of not to exceed twenty cents for what is known as a teachers' fund. Said levies shall be laid by said board of education at the time and in the manner that all school levies are laid by district boards of education, or as soon thereafter as practicable.

Sec. 6. The members of said county board of education of said high school, except the county superintendent of schools, shall re-

3 ceive for their services as such board five dollars each per day for
 4 the time actually spent in the work of the board as aforesaid; *pro-*
 5 *vided, however,* that no member shall receive pay for more than ten
 6 days in any one year. The salary of the secretary thereof shall be
 7 seveny-five dollars per annum. The per diem of members of said
 8 board and the salary of said secretary shall be paid out of the
 9 county high school maintenance building fund.

Sec. 7. Said board of education is hereby authorized, empow-
 2 ered and directed to contract for the erection of suitable buildings
 3 necessary for said school, equipping same with nec-
 4 essary furniture, heating apparatus, lights, etc., contract for the
 5 employment of teachers, janitors, etc., for said high school and
 6 paying for the same out of said levies and doing whatever is nec-
 7 essary to maintain and run said school in accordance with the
 8 general law.

Sec. 8 That said Wayne county high school be and the same is
 2 hereby established in or near said town of Wayne, and the site
 3 for which is to be selected by the board as aforesaid, shall not be
 4 less than six acres of land for said site.

Sec. 9. Before said members of said board enter upon their
 2 respective duties as such board of education, they shall take the
 3 several oaths as prescribed by law.

Sec. 10. As soon as said Wayne county high school building
 2 shall have been completed and equipped and ready for use, it shall
 3 be subject to and be maintained, run and governed by the gen-
 4 eral school laws of West Virginia so far as they do not conflict
 5 with this act and all acts and parts of acts inconsistent here-
 6 with are hereby repealed.

House Bill No. 320

(Committee Substitute for House Bill No. 320.)

(By the Committee on Education.)

AN ACT to amend and re-enact sections one and four of chapter one
 hundred thirty-six of the acts of the legislature of West Vir-
 ginia of one thousand nine hundred and fifteen, relating to es-
 tablishing a county high school in Nicholas county.

Be it enacted by the Legislature of West Virginia:

That sections one and four of chapter one hundred and thirty-six
 of the acts of the legislature of West Virginia of one thousand nine

hundred and fifteen be amended and re-enacted so as to read as follows:

Section 1. That a high school be and the same is hereby established in the county of Nicholas, state of West Virginia in or near the town of Summersville, which shall be known as the Nicholas county high school, the site of which is to be selected by the board of directors of said school, which said board of directors shall consist of three members as follows: The present elective member whose term expires on the thirtieth day of June, one thousand nine hundred and twenty-five, and whose successor shall be elected at the general election in the year one thousand nine hundred and twenty-four, and every four years thereafter, and whose term of office shall commence on the first day of July following said election and continue for four years and until his successor is elected and qualified; the present appointive member whose term expires on the thirtieth day of June, one thousand nine hundred and twenty-four and whose successor shall be appointed by the state superintendent of free schools of this state for a term of four years beginning on the first day of July, one thousand nine hundred and twenty-four and every four years thereafter, which said member shall be a resident taxpayer of said county, and shall in the opinion of the state superintendent of free schools be a person properly trained and equipped for discharging the duties of such director; and the county superintendent of free schools shall be *ex-officio* a member of said board of directors, but shall not be eligible as president or secretary of such board. The said board of directors shall elect one of their members president of the board and shall appoint a secretary as provided by law. Said board shall hold its meetings at the principal's office in the high school building on the first Saturday of each month during the school term.

Sec. 4. Said board of directors is authorized for each year hereafter to lay a levy not to exceed twelve and one-half cents on the one hundred dollars of taxable property in said county as ascertained by the last preceding assessment for state and county purposes, for the purpose of employing teachers and assistants, procuring necessary furniture, equipment and supplies, and for any other purpose of carrying on and maintaining said high school, which levy shall be known as the high school maintenance fund; and said board of directors is likewise authorized to lay an ad-

ditional levy not to exceed two and one-half cents on the one hundred dollars of taxable property, as aforesaid, for the purpose of erecting suitable buildings to be used in connection with said high school and for maintaining and equipping the same, which said levy shall be known as the high school building fund, but the independent district of Richwood is excepted from said levy as provided in section nine of chapter one hundred and thirty-six, acts of one thousand nine hundred and fifteen.

Sec. 5. All acts and parts of acts in conflict or inconsistent herewith are hereby repealed.

House Bill No. 392

(House Bill No. 392—Mr. Zimmerman.)

AN ACT to provide for the establishing of a county high school in the county of Hampshire.

Be it enacted by the Legislature of West Virginia:

Section 1. The presidents of the boards of education of the several districts of Hampshire county, together with the county superintendent of schools, shall constitute the Hampshire county high school board. The county superintendent of schools shall be *ex-officio* president of this board and a secretary shall be appointed by the board at its first regular meeting in each year.

Sec. 2. The Hampshire county high school board shall be a body corporate and as such shall have and exercise all the rights and powers now conferred by law upon district boards of education.

Sec. 3. Said board shall as soon as practicable after the passage and ratification of this act, purchase a site in a convenient and suitable location and shall erect thereon a suitable building or suitable buildings and shall establish therein a high school to be open without cost for tuition to all pupils of high school grade in Hampshire county and to be known as the Hampshire county high school.

Sec. 4. For the purpose of purchasing a site and of erecting and equipping a building or buildings for said county high school, the county high school board is hereby empowered to lay a levy of not more than thirty cents on each one hundred dollars valuation of taxable property in the county, for three successive years beginning with the year one thousand nine hundred and twenty-one.

Sec. 5. Beginning with the year in which said county high school is ready to open and annually thereafter, the county high school board shall have authority to lay for the support of said school a levy not to exceed ten cents on each one hundred dollars valuation of taxable property for a maintenance building fund and a levy not to exceed twenty cents, for a teachers' fund. Said levies shall be laid at the time and in the manner that school levies are laid by district boards of education.

Sec. 6. The members of the county high school board, except the county superintendent of schools, shall receive for their services five dollars each per day for the time actually spent in the work of the board; *provided, however*, that no member shall receive pay for more than ten days in any year. The salary of the secretary shall be seventy-five dollars per annum. The per diem of members of the board and the salary of the secretary shall be paid out of the county high school maintenance building fund.

Sec. 7. Before this act shall be in effect it shall be submitted to a vote of the people of the county for ratification or rejection. All necessary expenses of holding the aforesaid election shall be borne equally by the boards of education of the county and shall be paid out of the maintenance building fund of the several districts.

House Bill No. 31

(House Bill No. 31—Mr. Daugherty, of Wirt.)

AN ACT to establish a county high school in the county of Wirt, upon a site to be selected by the board of directors, and to provide for the laying of levies for the erection of a building for said high school, and for the maintenance thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. That a high school be and the same is hereby established in the county of Wirt, state of West Virginia, in or near the town of Elizabeth, which shall be known as the Wirt county high school, the site for which shall be selected by the board of directors of said school, which said board of directors shall consist of three members, composed of the county superintendent of schools of said county of Wirt, who shall be *ex-officio* a member and president thereof; two members who shall be elected at the special election provided for therein and serve until his successor is

10 elected and qualified. Their successors shall be elected at the
11 next general election and serve four years, or until their successors
12 are elected and qualified. After the first election provided for the
13 term of office shall begin the first day of July following the elec-
14 tion of said member. No two members of the board shall be
15 residents of the same magisterial district.

Sec. 2. The said board of directors, as heretofore constituted,
2 shall have full power and authority to make such rules and regu-
3 lations as it may deem proper and necessary for the management
4 and control of said high school; employ necessary teachers and
5 fix the salaries of the same; establish a graded course of study
6 and grant diplomas upon graduation of pupils, and perform such
7 other duties as are necessary and essential to the welfare and main-
8 tenance of said high school; and shall elect a secretary and pre-
9 scribe the duties and compensation of the same.

Sec. 3. Said board of directors shall be a body corporate and
2 as such may sue and be sued, contract and be contracted with,
3 and shall receive, hold and dispose of, according to the usual form
4 of law and the instrument conferring titles, all gifts, grants or
5 devises made for the use of such high school, and shall be deemed
6 the owner of all property belonging to said high school, and shall
7 be liable for all claims which may legally exist against it.

Sec. 4. For the purpose of procuring proper grounds, and for
2 erecting and equipping suitable buildings thereon for said high
3 school, said board of directors may lay a levy of not exceeding
4 twenty cents on the one hundred dollars valuation of property for
5 taxable purpose for the year following the adoption of this act as
6 hereinafter provided for, and for the next three years following;
7 and not to exceed ten cents on the one hundred dollars valuation
8 for such purposes for each subsequent year thereafter; and for
9 maintaining said school said board of directors shall lay a levy, not
10 to exceed ten cents on the one hundred dollars valuation for each
11 year thereafter.

Sec. 5. The qualifications for admission to said county high
2 school shall be subject to such regulations as may be prescribed
3 by the said board of directors.

Sec. 6. All revenue from taxation as provided herein shall be
2 collected and disbursed by the sheriff of said county in the man-
3 ner provided by general law.

Sec. 7. The members of said board of directors shall be allowed a compensation of four dollars per day for their services for the time they are actually employed in transacting the business of said high school, not to exceed fifteen days in any one year.

Sec. 8. But before this act shall take effect, it shall be submitted to the voters of Wirt county at a special election ordered by the county court of said county of Wirt and general notice of said election shall be published in two newspapers of opposite politics and general circulation in said county, for four successive weeks preceding said election, if there be two such newspapers that will publish the same at the legal rate for such publications; but if there be no such newspapers that will publish such notice at such rate, then such notice may be posted at three of the most public places in each magisterial district in said county for a like period of time.

Said county court shall provide a ballot bearing the names of the candidates for members of said board of directors and also bearing thereon the words "For county high school", and "Against county high school," and if a majority of the votes cast at said election be in favor of said county high school, then this act shall be of binding force and effect from the time of the official announcement of said vote. Said election shall be conducted in the manner provided by law for the conducting of general elections. If this act should fail to carry at such special election it may be re-submitted at the next general election following.

House Bill No. 112

(Committee Substitute for House Bill No. 112.)

(By the Committee on Education.)

AN ACT to amend and re-enact sections one hundred and forty-eight and one hundred and forty-nine of chapter two of the acts of the legislature of West Virginia, regular session, of one thousand nine hundred and nineteen.

Be it enacted by the Legislature of West Virginia:

That sections one hundred and forty-eight and one hundred and forty-nine of chapter two of the acts of the legislature of West Virginia, regular session, of one thousand nine hundred and nineteen be amended and re-enacted so as to read as follows.

Potomac State School.

Section 148. The preparatory branch of the state university heretofore established at Keyser in Mineral county shall remain where now located and on and after the first day of July, one thousand nine hundred and twenty-one, shall be known as the "Potomac State School" which shall be under the control and management of the state board of education as provided by section seven of this chapter and of the state board of control as provided by section four of chapter fifteen-*m* of Barnes' code of one thousand nine hundred and sixteen. The rules and regulations made by the principal and teachers of this institution for its general government shall be submitted to the state board of education for its approval. Said state school shall offer instruction in agriculture, home economics, industrial subjects and such other subjects as the state board of education may direct. The legislature shall make the necessary appropriation for the financial support of said institution.

Chapter seventy of the acts of the legislature of one thousand nine hundred and seventeen, regular session, is hereby repealed.

The New River State School.

Sec. 149. The West Virginia trades school heretofore established at Montgomery in Fayette county shall remain where located and on and after the first day of July, one thousand nine hundred and twenty-one, shall be known as the "New River State School" which shall be under the control and management of the state board of education as provided by section seven of this chapter and of the state board of control as provided by section four of chapter fifteen-*m* of Barnes' code of one thousand nine hundred and sixteen. The rules and regulations made by the principal and teachers of this institution for its general government shall be submitted to the state board of education for its approval. Said state school shall offer instructions in home economics, industrial subjects, and such other subjects as the state board of education may direct. The legislature shall make the necessary appropriation for the financial support of said institution.

All acts and parts of acts inconsistent herewith are hereby repealed.

House Bill No. 234

(House Bill No. 234—Mr. Wysong.)

AN ACT authorizing and empowering the state board of control to grant to the public an easement or right of way over and upon a certain parcel of land owned by the state of West Virginia, in the county of Mercer, in said state, upon which is located the Concord state normal building, for a public passway.

Be it enacted by the Legislature of West Virginia:

Section 1. That the state board of control is hereby authorized and empowered to grant and dedicate to the public, by proper and apt deed, upon such terms and conditions as to the said board shall seem proper, an easement and right of way upon and over a certain parcel of land owned by the state of West Virginia at the town of Athens, West Virginia, which was conveyed to the state of West Virginia by Stephen F. Vermillion and Rhoda A. Vermillion, his wife, by deed bearing date the first day of March, one thousand nine hundred and eleven, and recorded in the office of the clerk of the county court of Mercer county, West Virginia, in deed book number seventy-eight at page fifty, for the use of said public as a passway over and upon said parcel of land at such point as to said board shall seem practical, and with such reservations and restrictions as in the judgment of said board may be proper and necessary; said passway not to be of greater width than thirty feet nor less width than twelve feet.

House Bill No. 3

(House Bill No. 3—Mr. McClintic, of Kanawha.)

AN ACT to amend and re-enact section two of chapter one hundred and fifteen of the acts of the legislature of West Virginia, regular session, one thousand nine hundred and nineteen entitled "An act authorizing the establishment of a school teachers' retirement pension fund for the Charleston independent school district, of Charleston."

Be it enacted by the Legislature of West Virginia:

That section two of chapter one hundred and fifteen of the acts of the legislature of West Virginia, regular session, one thousand nine hundred and nineteen, be and the same is hereby amended and re-enacted to read as follows:

Section 2. Said fund if so established, shall be made up of (a) such sums as said board of education shall from time to time appropriate for the benefit of said fund from the school funds of the Charleston independent school district; (b) such donations, legacies and gifts as shall at any time be made for the benefit of said fund.

House Bill No. 503

—(House Bill No. 503—Mr. McClintic, of Kanawha.)

AN ACT to amend and re-enact section ninety-eight-a-two section ninety-eight-a-four and section ninety-eight-a-eleven of chapter three of Barnes' code edition of one thousand nine hundred and eighteen, in reference to registration.

Be it enacted by the Legislature of West Virginia:

That sections ninety-eight-a-two, ninety-eight-a-four and ninety-eight-a-eleven of chapter three of Barnes' code of West Virginia, edition of one thousand nine hundred and eighteen, be amended and re-enacted so as to read as follows:

Section 98-a-2. The county court shall cause to be prepared suitable books and blanks for the registration of voters and the facts required by this act, and the clerk of said county court shall distribute said books and blanks to the registrars of the respective voting precincts. The books aforesaid shall be so arranged as to admit of the alphabetical classification of the names of the voters and ruled in parallel columns, on which the registrar shall enter, first, the number; second, the names of the persons registered; third, color; fourth, political affiliation; fifth, age; sixth, place of birth; seventh, time of residence in precinct, county and state; eighth, if naturalized, the date of the papers and the court by which issued; ninth, date of registration; tenth, place of residence. Any registrar violating any of the provisions of this section shall be fined not less than fifty dollars and confined in jail not less than thirty days.

Examination of Applicant for Registration; Who Registered.

Sec. 98-a-4. Before the registrars shall register the name of any person as a qualified voter, they must be satisfied of his qualifications, or have him make and subscribe the affidavit as hereinafter provided, showing his right to register, and for the purpose of this act they are hereby given authority to administer

6 oaths and they may require the person desiring to register to
7 answer under oath the following questions:

8 *One.* Are you a citizen of the United States.

9 *Two.* Are you a native or naturalized citizen? If the person
10 offering to be registered claims to be a naturalized citizen of the
11 United States he shall produce for the inspection of the officer of
12 registration a certificate or other evidence of his naturalization
13 and also state, under oath, or affirmation, that he is the identical
14 person named therein; but the production of the certificate shall
15 not be required, if the person offering to be registered states,
16 under oath, when and where he was naturalized, that he had a
17 certificate of naturalization, and that against his will the same
18 is lost, destroyed or beyond his power to produce the same; or if
19 he states under oath, that, by reason of the naturalization of his
20 parents or one of them, he has become a citizen of the United
21 States, and where and when his parents were naturalized.

22 *Three.* Will you have resided in this state for one year imme-
23 diately preceding the coming election? If so, where have you
24 resided? Name two persons who know of your place or places of
25 residence.

26 *Four.* Have you been absent from the state within a year imme-
27 diately preceding the coming election? (If "Yes," when?)

28 *Five.* When you left this state did you leave for a temporary
29 purpose with the intention of returning, or for the purpose of
30 remaining away?

31 *Six.* Did you, while absent, look upon or regard this state as
32 your home?

33 *Seven.* Did you, while absent, vote in any other state?

34 *Eight.* Will you have resided in this county for sixty days prior
35 to the coming election?

36 *Nine.* When did you last come to this county?

37 *Ten.* Are you an actual resident of this precinct?

38 *Eleven.* Are you twenty-one years of age or will you be such
39 at the coming election to the best of your knowledge and belief?

40 *Twelve.* What is your occupation and postoffice address?

41 *Thirteen.* What party do you affiliate with or belong to?

42 No other questions shall be asked the applicant for registra-
43 tion, and no one except the registrars are permitted to ask said
44 applicant any question affecting his qualifications to vote at the

45 time such applicant is applying to said registrars for registra-
46 tion.

47 Every person shall be registered who will be entitled to vote
48 at the first election occurring after the registration by reason of
49 his arriving at twenty-one years of age before the time, or by
50 reason of his having resided for a sufficient length of time in the
51 state and county provided he is otherwise qualified.

Sec. 98-a-11. No person shall be allowed to vote at any elec-
2 tion hereafter held in this state unless he shall have been register-
3 ed as herein provided, and the commissioners of every election
4 shall allow only those to vote whose names appear upon the regis-
5 tration books furnished by the clerk of the county court to them,
6 or who present a proper certificate of transfer, as herein pro-
7 vided. And no person shall be allowed to cast the ballot of any
8 party at any primary election hereafter held unless he shall have
9 been registered as a voter of that party, as herein provided; and
10 the commissioners of every primary election shall allow only those
11 to cast the ballot of any party participating in such election,
12 whose names are registered as voters of that particular party upon
13 the registration books furnished them by the clerk of the county
14 court, or who present a proper certificate of transfer as herein
15 provided, showing them to be voters of such party; and every
16 certificate of transfer for use at a primary election shall show the
17 name of the party to which the voter belongs, if shown by the
18 registration books. The requirements of this section as to voting
19 in primary elections shall be in addition to those mentioned in
20 section thirteen of chapter five of the acts of the legis-
21 lature of the extraordinary session of nineteen hundred and
22 sixteen. Any commissioner of election who shall wilfully vio-
23 late any of the provisions of this act shall be deemed guilty of a
24 misdemeanor, and upon conviction thereof shall be fined not less
25 than fifty nor more than one hundred dollars, and imprisoned in
26 the county jail not less than ten nor more than ninety days for
27 every such offense.

House Bill No. 378

(House Bill No. 378—Mr. Strother.)

AN ACT to enable qualified electors necessarily absent, or to be
absent, from the state on the day of election, to vote, and for
other purposes.

Be it enacted by the Legislature of West Virginia:

Section 1. That any qualified elector of the state of West Virginia, having duly registered, who by reason of the nature of his employment, business, or on account of other unavoidable causes, expects to be absent from the state on the day of holding any general, special or primary election, may vote at any such election as hereinafter provided. The provisions of this act shall apply only to electors necessarily absent from the state on election day by reason of business, employment, or other unavoidable cause.

Application for Absent Voter's Ballot.

Sec. 2. An elector as designated in section one of this act expecting to be absent from the state on the day of any general, special or primary election, may, not more than thirty days, nor less than ten days, prior to the date of any such election, make application to the clerk of the circuit court of the county in which his voting precinct is situated for an official absent voter's ballot or ballots to be voted at such election.

Blank Furnished by Clerk—Form—Oath.

Sec. 3. Application for absent voter's ballots shall be made in person or by mail on a blank to be furnished by the clerk of the circuit court of the county in which the applicant is a qualified elector. Such blank shall, upon request, be sent to the applicant by mail by such clerk or delivered to such applicant in person upon his appearance at the office of such clerk. Application for absent voter's ballots shall be substantially in the following form, and shall be signed and sworn to by the applicant, as hereinafter provided, before some officer authorized by law to administer oaths, and having an official seal. If the applicant appears in person at the office of the clerk of the circuit court such clerk shall administer the necessary oath.

VERIFIED APPLICATION FOR ABSENT VOTER'S BALLOT.

STATE OF

COUNTY OF to-wit:

I,, solemnly swear (or affirm) that I have been a resident of the state of West Virginia for twelve months, and of county, for sixty (60) days next preceding, and of precinct No., in the magisterial district (or of the ward of the city of) at the day of said election; and that I am a duly qualified elector entitled to vote in such precinct at such election; and that I am registered in

23 the precinct of my residence as provided by law. That I am
 24 (stating business) and that because of the na-
 25 ture of my business or employment or for the following reason
 26 (relating unavoidable cause of ab-
 27 sence) I expect to be absent from the state of my residence on the
 28 date of such, election, and I hereby make applica-
 29 tion for an official ballot or ballots, if more than one (1) is to
 30 be used, to be voted by me at such election, and that I will re-
 31 turn such ballot or ballots to the officer issuing them not later
 32 than four days prior to the day of such election. If application
 33 is made for a primary ballot, the applicant shall also designate
 34 the party whose candidates he expects to vote for.

35 (Date)

36 Signed

37 Home address of applicant.....

38 P. O. address to which ballot is to be sent,

39

40 Subscribed, sworn to before me and given under my hand
 41 and seal this day of, A. D. 19....

42 (Official Title)

43 My commission expires

Duty of Clerk.

Sec. 4. Upon receipt of such application the clerk of the cir-
 2 cuit court with whom such application is filed shall file the ap-
 3 plication in his office and enter the name of the elector, his home
 4 address, the address to which the ballot or ballots are to be sent,
 5 the date of receiving the application, the date of mailing the
 6 ballot or ballots to such elector, the date of receiving the ballot or
 7 ballots from such elector, and such other information as may
 8 seem necessary or advisable upon a list to be kept for that pur-
 9 pose.

Ballots Mailed or Delivered—Clerk's Seal.

Sec. 5. The clerk of the circuit court of the county in which
 2 said applicant is a qualified elector, shall, on the tenth day prior
 3 to the election at which such absent voter's ballot is to be used,
 4 but not before said tenth day, mail to all applicants who have
 5 executed and filed their application on or before said tenth day,
 6 postage prepaid, at the address named in the application, an offi-
 7 cial ballot or ballots, if more than one (1) are to be voted at
 8 such election; or the applicant may obtain such ballot or bal-

9 lots by applying personally at the office of such clerk of the cir-
 10 cuit court not more than ten (10) days nor less than four (4)
 11 days before such election. The clerk of said circuit court shall,
 12 on each and every day after said tenth day until and including
 13 the fourth day before the election at which such absent voter's
 14 ballot is to be used, but not after said fourth day, mail to each
 15 applicant on the day of the filing of the application an official
 16 ballot or ballots in the way and manner the applications were
 17 mailed on said tenth day. In computing the tenth day before
 18 the election day and the fourth day before the election day the
 19 date of the election shall be excluded. Before mailing or de-
 20 livering any ballot the clerk shall fix his official seal and place
 21 his signature near the lower left hand corner on the back thereof.

Ballot Enclosed in Envelope—Affidavit.

Sec. 6. The clerk of the circuit court of the county shall en-
 2 close each ballot or ballots in an envelope, unsealed, to be fur-
 3 nished by such clerk, which envelope shall bear upon the face
 4 thereof, the name, official title and post-office address of such
 5 clerk and upon the other side a printed affidavit in substantially
 6 the following form:

7 STATE OF WEST VIRGINIA,
 8 COUNTY OF, to-wit.
 9 I,, do solemnly swear (or affirm) that
 10 I am a resident of precinct No. of the magisterial district
 11 of, (or) of ward No. of the city of
 12, residing at in that city, in the
 13 county of and state of West Virginia; and am
 14 entitled to vote in such precinct at the election to
 15 be held on, 19..... That I am
 16 (stating business) and that because of the nature of my employ-
 17 ment, or for the following reasons
 18 (relating unavoidable cause of absence) I expect to be absent
 19 from the state of my residence on the day of such election. I
 20 further swear or affirm that I have personally marked the en-
 21 closed ballot or ballots in secret, and have enclosed the same in
 22 this envelope and sealed the same without exhibiting them to
 23 any other person.

24 (Signed).....
 25 Subscribed and sworn to before me, a in and
 26 for county, state of, and given

27 under my hand and seal this day of,
 28 A. D. 19—. And I do certify that the affiant exhibited the
 29 enclosed ballot to me unmarked; that he then in my presence and
 30 of no other person, and in such manner that I could not see his
 31 vote, marked such ballot or ballots and enclosed and sealed the
 32 same in this envelope; that the affiant was not solicited or
 33 advised by me to vote for or against any candidate or measure.

34

35 Signature of official.

36

37 Official title.

38 My commission expires

Affidavit of Absent Voter—Marking Ballot—Return.

Sec. 7. Such absent voter shall make and subscribe to the
 2 affidavit provided for in section six of this act before any officer
 3 authorized by law to administer oaths, and having an official seal,
 4 and such voter shall thereupon, in the presence of such officer,
 5 and of no other person, mark such ballot or ballots, but in such
 6 manner that such officer cannot know how such ballot or ballots
 7 are marked, and such ballot or ballots shall then, in the pres-
 8 ence of such officer, be folded by such voter so that each ballot
 9 will be separate and so as to conceal the marking, and shall, in
 10 the presence of such officer, be enclosed in such envelope together
 11 with any unused ballot and the envelope shall be securely sealed.
 12 The envelope shall then be mailed by such voter, by registered
 13 mail, postage prepaid, to the officer issuing the ballot or if more
 14 convenient it may be delivered in person. Any such ballot to
 15 be valid shall be received by the clerk of the circuit court of the
 16 county in time for him to deliver the same to the election com-
 17 missioners, to whom the ballots and other election supplies are
 18 delivered for use at such elector's voting precinct.

Ballot Sealed—Endorsement.

Sec. 8. Upon receipt of an absent voter's ballot, the clerk of
 2 the circuit court of the county shall forthwith enclose the same,
 3 unopened, together with the application made by such absent
 4 voter, in a large carrier envelope, which shall be securely sealed
 5 and endorsed with the name and official title of such clerk and
 6 the words: "This envelope contains an absent voter's ballot and
 7 must be opened only at the polls on election day while such polls
 8 are open," and such clerk shall thereafter keep the same securely

9 in his office until delivered by him as provided in section nine
10 of this act.

Delivery to Commissioner.

Sec. 9. In the event that an absent voter's ballot shall be received by the clerk of the circuit court prior to the delivery of the official ballots to the election commissioner of the precinct in which such elector resides, such enclosed ballot and application sealed in the carrier envelope, shall be delivered to the election commissioners of such precinct along with such official ballots.

Canvass of Ballots.

Sec. 10. At any time between the opening and closing of the polls on such election day, the commissioners of election of such precinct, in the presence of each other, shall open the outer or carrier envelope only, announce the absent voter's name and compare the signature upon the application with the signature upon the affidavit on the ballot envelope. In case the election commissioners find the affidavit properly executed and attested, that the signatures correspond, that the applicant is a duly qualified elector of the precinct, that he is duly registered, or that the applicant has not voted in person at such election, or, in case of a primary election, if he has not previously exercised the right of suffrage, if he shall have executed the proper declaration relative to his age and qualifications and the party with which he intends to affiliate, the election inspector shall open the envelope containing the absent voter's ballot in such manner as not to deface or destroy the affidavit thereon and take out the ballot or ballots enclosed therein without unfolding or permitting the same to be unfolded or examined. The commissioners shall then deliver such ballot or ballots to the poll clerks, who shall at once proceed to write their names on the back of each of such ballots, and in the same manner as other ballots are required to be endorsed. A commissioner shall thereupon deposit the same in the ballot box and enter the absent voter's name in the poll book, the same as if he had been present and voted in person. In the event that such affidavit is found to be insufficient, or that the signatures do not correspond, or that the applicant is not a duly qualified elector in such precinct or that he has voted in person at such election, or that he has not registered, or that the ballot is open, or has been opened and resealed, or that the ballot envelope contains more than one bal-

31 lot of any one kind, or in case of a primary election, if he shall
32 have failed to execute the proper declarations relative to his age
33 and qualifications and the party with which he intends to affiliate,
34 such ballot or ballots shall not be accepted or counted. Every
35 ballot not accepted or counted for any of the reasons hereinbe-
36 fore enumerated shall, without unfolding the same to disclose
37 how it is marked, be endorsed on the back thereof with the words
38 "Rejected," (giving the reason or rea-
39 sons therefor). All rejected absent voter's ballots shall be en-
40 closed and securely sealed in an envelope on which the election
41 commissioners shall endorse the words "Absent voter's defective
42 ballots," and return to the same officer and in the same manner
43 as by law provided for the return and preservation of official
44 ballots cast and uncast at the election.

Right of Challenge.

Sec. 11. The vote of any absent voter may be challenged for
2 cause and the election commissioners shall have all the power
3 and authority given by law to hear and determine the legality
4 of such ballot or ballots the same as though the ballot or ballots
5 were cast by the voter in person.

Deceased Voter's Ballot.

Sec. 12. Whenever it shall be made to appear by due proof
2 to the commissioners that any elector who has marked and for-
3 warded his ballot as hereinbefore provided in this act, has died,
4 then the ballot of such deceased voter shall be returned by the
5 commissioners with defective ballots to the officer issuing it, but
6 the casting of an absent voter's ballot by a deceased voter shall
7 not invalidate the election.

Application of Existing Law.

Sec. 13. The provisions of the election law and not inconsis-
2 tent with the provisions of this act shall apply with full force,
3 so far as applicable, to absent voters.

False Affidavits—Violations—Penalty.

Sec. 14. If any person shall wilfully swear falsely to any
2 such affidavit he shall be guilty of perjury and shall upon con-
3 viction thereof be punished as provided by law. If any per-
4 son who, having procured an official ballot or ballots, as herein-
5 before provided, shall wilfully neglect or refuse to cast or return
6 the same in the manner hereinbefore provided, or who shall wil-
7 fully violate any of the provisions of this act shall be deemed

8 guilty of a misdemeanor and upon conviction thereof shall be
9 fined not to exceed two hundred and fifty (\$250) dollars, or be
10 imprisoned in the county jail for a period not to exceed six (6)
11 months. If the clerk of the circuit court of any county, or any
12 election officer shall refuse or neglect to perform any of the
13 duties prescribed in this act, or shall violate any of the provisions
14 thereof, he shall be deemed guilty of a misdemeanor and shall
15 upon conviction thereof, be subject to a fine of not less than
16 two hundred and fifty (\$250) dollars, nor more than five hun-
17 dred (\$500) dollars, or by imprisonment in the county jail for
18 a period of not to exceed six months.

Act Supplementary.

Sec. 15. The provisions of this act shall be deemed to con-
2 stitute a method of voting in addition to the method now pro-
3 vided by law, and to such extent shall be deemed as supplemen-
4 tary and amendatory of existing laws relating to the manner and
5 method of voting.

Return of Applicant.

Sec. 16. This act shall not be so construed as to prohibit
2 any absent voter, returning to his place of residence, from voting
3 in person within his precinct at any election contemplated in
4 this act, notwithstanding that he may have made application for
5 an absent voter's ballot or ballots, and such ballot or ballots may
6 have been mailed or otherwise delivered by the proper clerk;
7 *provided*, that such voter has not availed himself of the privi-
8 leges of an absent voter, as provided in this act, and voted the
9 ballot or ballots mailed or otherwise delivered to him by such
10 clerk; and *provided*, he shall return such ballot or ballots, if re-
11 ceived to the commissioner of the election of the precinct of his
12 residence by whom it shall be marked "cancelled," and preserved
13 with other ballots.

Ballots, Official—Record and Delivery.

Sec. 17. The ballot or ballots to be delivered to and marked
2 by any absent voter shall be of the regular official ballots to be
3 used at such election. The clerk shall keep a record of all bal-
4 lots so delivered for the purpose of absent voting, as well as all
5 ballots, if any, marked before him, and shall deliver to the com-
6 missioners of the election to whom the ballots for the precinct are
7 delivered, and at the time of the delivery of such ballots a cer-
8 tificate stating the number of ballots delivered or mailed to absent

9 voters, as those marked before him, if any, and the names of the
10 voters to whom such ballots have been delivered or mailed, or by
11 whom they have been marked, if marked before him.

Ballots—Number—Printing—Distribution.

Sec. 18. Absent voter's ballots shall be in all respects like
2 other ballots. Not less than thirty (30) days prior to the date
3 on which any general, primary or special election is held, the
4 clerk of the circuit courts of the several counties shall estimate
5 and determine the number of absent voter's ballots of all kinds
6 which will be required in their respective counties for any such
7 election. The ballots for the election of all officers, or the rati-
8 fication, acceptance or rejection of any measure or proposition
9 to be voted for by the electors shall be prepared and printed under
10 the direction of the board of ballot commissioners. The several
11 county boards of ballot commissioners shall prepare and have
12 printed, in such number as they shall determine, such absent
13 voter's ballots as are to be printed under their directions as
14 hereinbefore provided, and such ballots shall be delivered to the
15 clerk of the circuit court of the county not less than ten (10)
16 days prior to the day of the election at which they are to be used.

House Bill No. 387

(House Bill No. 387—Mr. McClintic, of Kanawha.)

AN ACT for the protection of employees as voters, and giving time
to vote at primary elections.

Be it enacted by the Legislature of West Virginia:

Section 1. Any person entitled to vote at the primary or
2 convention shall on the day of such primary or convention, be
3 entitled to absent himself or herself from any service or em-
4 ployment in which he or she is then engaged or employed for
5 a period of two hours between the time of opening and closing
6 the polls. He or she shall not be liable to any penalty nor
7 shall any deduction be made on account of such absence from
8 his or her usual salary or wages; *provided, however,* that appli-
9 cation for such leave of absence shall be made prior to day of
10 primary or convention.

Sec. 2. Whoever, for the purpose of influencing a voter, seeks
2 by violence or threats of violence, or threats to enforce the pay-

3 ment of a debt; or to eject or threaten to eject from any house
4 he or she may occupy; to foreclose a lease or to enforce any
5 contract effecting the tenant or renter, except as authorized by law,
6 or to injure the business, trade or calling of an elector; or, if
7 any employer of laborers or any agent of such employer, threat-
8 ens to withhold the wages of, or to dismiss from any service
9 any laborer in his employment; or refuses to allow such em-
10 ployee time to attend the place of election and vote, shall be
11 guilty of a misdemeanor and may be fined not more than two
12 hundred dollars nor less than twenty-five dollars or confined in
13 the county jail not more than three months.

Sec. 3. All acts or parts of acts in conflict with this act are
2 hereby repealed.

House Bill No. 531

(House Bill No. 531—Mr. Middelburg.)

AN ACT to amend section eight and section eleven of chapter one
hundred and twenty-seven of the code of West Virginia, relating
to the abatement, revival and discontinuance of actions.

Be it enacted by the Legislature of West Virginia:

That section eight and section eleven of chapter one hundred and
twenty-seven of the code of West Virginia, be amended and re-enacted
so as to read as follows:

Section 8. Any court in which is pending any case wherein for
2 more than two years, there has been no order or proceeding but to
3 continue it, or wherein the plaintiff is delinquent in the payment
4 of accrued court costs, may, in its discretion, order such case to be
5 struck from its docket; and it shall thereby be discontinued. A
6 court making such order may direct it to be published in such
7 newspaper as it may name.

Sec. 11. Any court may on motion, re-instate on the trial dock-
2 et of the court any case dismissed, and set aside any non-suit that
3 may be entered by reason of the non-appearance of the plaintiff
4 within three terms after the order of dismissal may have been made,
5 or order of non-suit entered; but any such order of re-instatement
6 shall not be entered until the accrued court costs in such case shall
7 have been paid.

House Bill No. 43

(Senate Substitute for House Bill No. 43.)

(By the Committee on the Judiciary.)

AN ACT to amend and re-enact sections twenty-two and twenty-three of chapter one hundred and sixteen of the code of West Virginia, relating to the pay of grand and petit jurors.

Be it enacted by the Legislature of West Virginia:

That sections twenty-two and twenty-three of chapter one hundred and sixteen of the code, be amended and re-enacted so as to read as follows:

Section 22. Every person who shall serve upon a grand jury shall be entitled to receive for such services not less than two dollars nor more than three dollars and fifty cents, to be fixed by the court, for each day he may so serve, and in addition there to the same mileage as allowed to witnesses, to be paid out of the county treasury. But he shall not be paid for more than four days services at any one term of the court, except in the counties of Harrison, Kanawha, McDowell, Fayette, Cabell, Marshall, Marion, Mercer, Wood, Ohio, Mingo, Monongalia, Preston and Summers, where such grand jurors shall not be paid for more than ten days services for any one term of court.

Sec. 23. Any person summoned as aforesaid, by virtue of a *venire facias* or otherwise, to serve as a petit juror, and actually attending upon the court, or attending at the court house, at the time summoned, whether he be called to serve on a jury or not, shall for each day he so attends, be entitled to receive not less than two dollars and not more than three dollars and fifty cents, to be fixed by the court, and the same mileage allowed to witnesses, to be paid out of the county treasury. The judge of the court shall fix the compensation for grand and petit jurors, as provided for above, by an order entered of record in said court. *Provided*, that for any day that any person shall be sworn to serve as a juror on a case of felony he shall, for that day, and any other days he may so serve on such case, be paid three dollars and fifty cents out of the state treasury, that for each day he shall not actually attend at the court house he shall receive nothing, and shall be allowed mileage but once during the term. There shall be taxed in the costs against any person against whom a judgment or the verdict of a jury may be rendered in

19 a case of misdemeanor, and against any person against whom
20 judgment on the verdict of a jury may be rendered in a civil ac-
21 tion, and against any person on whose motion the verdict of a
22 jury is set aside and a new trial granted, eight dollars for jury
23 costs, which when collected from the party, shall be paid into
24 the county treasury. All money so received by the clerk shall
25 be forthwith paid by him to the sheriff, and the clerk and his
26 surety shall be liable therefor on his official bond, as for other
27 money coming into his hands by virtue of his office.

28 The clerk of the circuit court of each county in this state shall
29 annually certify to the county court a list of all money so paid
30 to him, and by him paid to the sheriff, and in addition thereto, a
31 correct list of all the cases, in which jury fees have been taxed,
32 and are, at the time, properly due and payable in the county
33 treasury, and the sheriff of the county shall be held to account
34 in his annual settlement for all such moneys collected by him.

House Bill No. 2

(House Bill No. 2—Mr. McClintic, of Kanawha.)

AN ACT to amend and re-enact section twenty-three of chapter seven-
ty-two of the acts of the legislature of one thousand nine hundred
and fifteen, now section twenty-three of chapter one hundred
and thirty-one of Barnes' edition of the code of one thousand nine
hundred and eighteen.

Be it enacted by the Legislature of West Virginia:

That section twenty-three of chapter seventy-two of the acts of the
legislature for one thousand nine hundred and fifteen, now section
twenty-three of chapter one hundred and thirty-one of Barnes' edi-
tion of the code for one thousand nine hundred and eighteen, be
amended and re-enacted to read as follows:

Section 23. All instructions shall be read by the court to the jury
2 as the action and ruling of the court without reference to or dis-
3 closing, the party by whom they may have been prayed. Every
4 instruction or charge when read to the jury shall, with the objec-
5 tions or exceptions thereto, indorsed thereon, become a part of the
6 record in the case and shall be included and copied in any transcript
7 of the record without the formality of a bill of exceptions.

8 All acts or parts of acts inconsistent herewith are hereby re-
9 pealed.

House Bill No. 1

(House Bill No. 1—Mr. McClintic, of Kanawha.)

AN ACT to amend and re-enact section five of chapter one hundred and thirty-seven of the code relating to fees of commissioners in chancery.

Be it enacted by the Legislature of West Virginia:

That section five of chapter one hundred and thirty-seven of the code of West Virginia be amended and re-enacted so as to read as follows:

Section 5. For any service, such fees as the court of which he is commissioner may from time to time prescribe (except as provided in chapter sixty-six of the code), not exceeding one dollar where less than an hour is employed, and if more than an hour be employed, not exceeding the rate of one dollar for each hour, or in lieu thereof, twenty-five cents per hundred words, as the commissioner may elect. A commissioner returning a report shall annex thereto a certificate, under oath that he was actually and necessarily employed for a number of hours, to be stated therein, in performing the services for which the fees stated at the foot thereof are charged. Until such certificate is made, no such fees shall be allowed or paid. A commissioner shall not be compelled to make out or return a report until his fees therefor be paid or security given him to pay so much as may be adjudged right by the court to whom the report is to be returned, or if it be a circuit court, by the judge thereof in vacation, unless the court or judge see cause to order it to be made out and returned without such payment or security, and shall so order.

House Bill No. 471

(House Bill No. 471—Mr. Stathers.)

AN ACT to amend and re-enact section four of chapter one hundred and nineteen, of the code of one thousand nine hundred and sixteen, relating to the prevention of the unlawful practice of law.

Be it enacted by the Legislature of West Virginia:

That section four of chapter one hundred and nineteen, of the code of one thousand nine hundred and sixteen, be amended and re-enacted so as to read as follows:

Section 4. It shall be unlawful for any natural person to
2 practice or appear as an attorney-at-law or as attorney and coun-
3 selor-at-law for another in a court of record in this state, or to
4 make it a business to practice as an attorney-at-law or as an at-
5 torney and counselor-at-law for another in any of said courts, or
6 to make it a business to solicit employment for a lawyer or to fur-
7 nish attorneys or counsel or an attorney and counsel to render
8 legal services, or to hold himself out to the public as being entitled
9 to practice law as aforesaid, or in any other manner, or to assume,
10 use, or advertise the title of lawyer, or attorney and counselor-at-
11 law, or counselor, or attorney and counselor, or equivalent terms in
12 any language, in such manner as to convey the impression that he
13 is a legal practitioner of law, or in any manner to advertise that
14 he either alone or together with other persons, has, owns, or con-
15 ducts or maintains a law office, without first having been duly and
16 regularly licensed and admitted to practice law in a court of
17 record of this state, without having subscribed and taken the oath
18 required by section three of chapter one hundred and nineteen,
19 Barnes' code of one thousand nine hundred and eighteen. Any
20 person violating the provisions of this section shall be deemed
21 guilty of a misdemeanor and shall be fined not more than one
22 thousand dollars. It shall be the duty of the prosecuting attorneys
23 to enforce the provisions of this and the next succeeding section
24 and to prosecute all violations thereof.

Sec. 4-a. It shall be unlawful for any corporation or voluntary
2 association to practice or appear as an attorney-at-law for any
3 person in any court in this state or before any judicial body, or
4 to make it a business to practice as an attorney-at-law, for any
5 person in any of said courts or to hold itself out to the public
6 as being entitled to practice law, or to render or furnish legal
7 services or advice, or to furnish attorneys or counsel or to render
8 legal services of any kind in actions or proceedings of any nature,
9 or in any other manner to assume to be entitled to practice law
10 or assume, use or advertise the title of lawyer in such manner as
11 to convey the impression that it is entitled to practice law, or to
12 furnish legal advice, services or counsel, or to advertise that either
13 alone or together with or by or through any person, whether a
14 duly and regularly admitted attorney-at-law, or not, it has, owns,
15 conducts or maintains a law office for the practice of law, or for
16 furnishing legal advice, services or counsel. It shall be unlawful

17 further for any corporation or voluntary association to solicit itself
18 or by or through its officers, agents or employees any claim or
19 demand for the purpose of bringing an action thereon or of set-
20 tling the estate of any insolvent debtor or of representing as attor-
21 ney-at-law, or for furnishing legal advice, services or counsel to,
22 a person sued or about to be sued in any action or proceeding or
23 against whom an action or proceeding has been or is about to be
24 brought, or who may be affected by any action or proceeding which
25 has been or may be instituted in any court or before any judicial
26 body, or for the purpose of so representing any person in the
27 pursuit of any civil or criminal remedy. Any corporation or vol-
28 untary association violating the provisions of this section shall be
29 liable to a fine of not more than one thousand dollars and every
30 officer, trustee, director, agent, or employee of such corporation or
31 voluntary association who directly or indirectly engages in any of
32 the acts herein prohibited or assists such corporation or voluntary
33 association to do such prohibited acts shall be guilty of a misde-
34 meanor and shall be fined not more than one thousand dollars.
35 The fact that any such officer, trustee, director, agent or employee
36 shall be a duly and regularly admitted attorney-at-law shall not
37 be held to permit or allow any such corporation or voluntary
38 association to do the acts prohibited herein nor shall such fact be
39 a defense upon the trial of any of the persons mentioned herein
40 for a violation of the provisions of this section. This section shall
41 not apply to a corporation or voluntary association lawfully en-
42 gaged in the examination and insuring the titles to real property
43 nor shall it prohibit a corporation or voluntary association from
44 employing an attorney or attorneys in and about its own immediate
45 affairs or in any litigation to which it is or may be a party, nor
46 shall it apply to organizations organized for benevolent or
47 charitable purposes, or for the purpose of assisting persons without
48 means in the pursuit of any civil remedy.

Sec. 4-b. But this act shall not apply to any attorney-at-law
2 who institutes suits in the circuit courts after obtaining a license,
3 if he shall qualify at the first term thereafter of the circuit court
4 of any county of the circuit in which he resides.

House Bill No. 356

(Senate Substitute for House Bill No. 356.)

(By the Committee on the Judiciary.)

AN ACT to amend and re-enact section seven of chapter one hundred and twenty of the code of West Virginia, as amended and re-enacted by chapter one hundred and seven of the acts of one thousand nine hundred and seventeen.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter one hundred and twenty of the code, as amended and re-enacted by chapter one hundred and seven of the acts of one thousand nine hundred and seventeen, be amended and re-enacted so as to read as follows:

Section 7. Any prosecuting attorney may, with the assent of the county court of his county, entered of record, appoint one practicing attorney to assist him in the discharge of his official duties for and during his term of office, and such assistant shall take the same oath of office and may perform the same duties of his principal; and he may be removed from office as such assistant at any time by his principal; and, further, he may be removed from his office as such assistant by the circuit court of the county in which he is appointed, for any cause for which his principal might be so removed. The compensation of such assistant shall be paid by the principal from the income of the office; except in the counties of Cabell, Boone, Brooke, Fayette, Hancock, Kanawha, Marion, Marshall, McDowell, Mercer, Mingo, Monongalia, Nicholas, Putnam, Raleigh, Wyoming, Randolph, Webster, Summers, Wood, Ohio, Logan, Wayne, Berkeley and Harrison and in said counties the county court thereof shall allow annually to such assistant such compensation, to be paid out of the county treasury as is deemed reasonable by the court; in the counties of Fayette, Marion, Cabell, Summers, Wyoming, Wood and Logan, not less than one thousand nor more than two thousand dollars annually; in the counties of Harrison, Monongalia, Mingo, McDowell, Mercer and Raleigh not less than fifteen hundred nor more than three thousand annually; and in the county of Kanawha not less than three thousand nor more than four thousand dollars per annum, and in the county of Ohio, three thousand dollars per annum, and in the counties of Berkeley and Wayne not to exceed the sum of one thousand dollars annually, and in the

28 counties of Boone, Marshall, Nicholas, Lincoln, Mineral and Ran-
29 dolf not to exceed the sum of nine hundred dollars an-
30 nually; in the counties of Tucker and Webster not to exceed six
31 hundred dollars annually, and in the county of Putnam, the sum
32 of three hundred dollars annually; and in each of the counties ex-
33 pressly named herein, the prosecuting attorney may employ a sten-
34 ographer for his office at a salary of not less than nine hundred
35 nor more than eighteen hundred dollars; except in Putnam and
36 Ritchie counties, which counties shall pay seven hundred dollars
37 for such stenographer per annum, to be paid out of the county
38 treasury. In the counties of Barbour, Greenbrier, Pocahontas,
39 Clay and Taylor, the prosecuting attorney may employ a sten-
40 ographer for his office at a salary not to exceed twelve hundred
41 dollars per annum and in the county of Upshur the prosecuting
42 attorney may employ a stenographer for his office at a salary not
43 to exceed nine hundred dollars per annum to be paid out of the
44 county treasury. *Provided, however,* that in the counties of Berke-
45 ley and Webster, no stenographer shall be employed. The prosecu-
46 ting attorney and his assistant (if he has one) shall manage and
47 control all prosecutions for crimes and misdemeanors tried in
48 the circuit court, or in any other court, having concurrent juris-
49 diction with the circuit court, for the trial of crimes and misde-
50 meanors, of any county, for which such prosecuting attorney was
51 elected or appointed.

52 *Provided,* that in any case in which it would, in the opinion of
53 the court, be improper for the prosecuting attorney and his as-
54 sistant (if he has one) to act; or if the prosecuting attorney and
55 his assistant be unable to act, such court shall appoint some com-
56 petent practicing attorney to prosecute such case, and upon the
57 performance of the service for which he was appointed, said court
58 shall certify that fact, with its opinion of what would be a rea-
59 sonable allowance to such attorney for the service rendered, to
60 the county court of the county, and such sum, or a different sum,
61 when allowed by the county court, shall be paid out of the county
62 treasury; *provided, further,* that nothing in this section shall be
63 construed to prohibit the employment by any person, of competent
64 attorneys to assist in the prosecution of any person or corporation
65 charged with crime.

66 All acts or parts of acts inconsistent herewith are hereby re-
67 pealed.

House Bill No. 134

(House Bill No. 134—Mr. Sanders.)

AN ACT to amend chapter sixty-four of the code by adding an additional section thereto to be known as section twenty.

Be it enacted by the Legislature of West Virginia:

That chapter sixty-four of the code of West Virginia be amended by adding thereto an additional section to be known as section twenty, which shall read as follows:

Section 20. The commissioner to whom a divorce case is referred shall, before proceeding to execute the requirements of the decree of reference, give to the parties or their attorneys, at least ten days notice of the time and place when and where he will commence proceedings, but if any party is not represented by an attorney and personal service cannot be had on the party on account of absence from the state or non residency, then it shall be sufficient to publish the notice in a newspaper of general circulation in the county wherein the suit is pending for such length of time as the court may direct.

House Bill No. 95

(House Bill No. 95—Mr. Downs.)

AN ACT to amend and re-enact section eight of chapter one hundred and fifty-four of Barnes' Code of West Virginia one thousand nine hundred and eighteen, and to add thereto sections twelve and thirteen, relating to coroners' inquests.

Be it enacted by the Legislature of West Virginia:

That section eight of chapter one hundred and fifty-four of Barnes' code of West Virginia of one thousand nine hundred and eighteen be amended and re-enacted, and that sections twelve and thirteen be enacted and added to said chapter, so as to read as follows:

Section 8. If the dead person be a stranger, whether the inquest be taken or the coroner or justice called on to view the body, thinks it unnecessary to have an inquest, he shall cause the body to be decently buried, or forwarded to its proper destination. If the coroner or justice certify the deceased has not sufficient estate in this state to pay the expenses of the burial, the coroner's or justice's fees, and the expenses of the inquest, if one was taken,

8 shall, when allowed by the county court of the county, be
9 paid out of the treasury of the county. In other cases, all such
10 charges shall be paid out of the estate of the deceased; or if it
11 prove insufficient, out of the treasury of the county, unless the
12 inquest be on the body of a convict in the penitentiary, in which
13 case the same shall be paid out the state treasury, after being
14 allowed by the executive. Each juror impaneled as herein pro-
15 vided, shall receive for his services two dollars for each day he shall
16 be necessarily engaged in holding the inquest and making the re-
17 turn thereof; the constable shall receive three dollars for summon-
18 ing a jury and witnesses for an inquest, and the coroner or justice
19 shall receive for his services five dollars for each day necessarily
20 engaged in holding the inquest and making return thereof, to be
21 allowed and paid as aforesaid. Should the coroner or justice, upon
22 such notice, make a preliminary examination of the facts connected
23 with a death by some probable unlawful act, and ascertain that
24 there was not good cause to believe it was by some unlawful act,
25 he shall not hold such inquest except by request of the prosecuting
26 attorney; and said coroner or justice, in case an examination is
27 made and no inquest held, shall be allowed a fee of two dollars
28 for such examination to be paid as herein provided.

Sec. 12. Every coroner shall keep a well bound record, denomi-
2 nated "Coroner's Record", furnished at the expense of the county,
3 in which he shall keep a record of all inquisitions and examina-
4 tions held and made by him or any justice of his county, and in
5 which he shall make entry such information he may be able to
6 obtain concerning the deceased, such as nationality, color, sex,
7 when and where born, married or single, residence, occupation,
8 date and probable cause of death, marks or scars of identification,
9 when and where buried, and the name and address of the under-
10 taker. The coroner, upon the request of any person, shall make
11 and certify a copy from his record of any inquisition or examina-
12 tion had before him or any justice, together with such informa-
13 tion that he may have on his record concerning the deceased, for
14 which services he shall be allowed to charge the person making
15 such request, a fee of one dollar.

Sec. 13. Every coroner upon the expiration of his office, shall
2 deliver to his successor his official record together with those of his
3 predecessors in office which he may have in his custody.

House Bill No. 431

(House Bill No. 431—Mr. Hugus.)

AN ACT to amend and re-enact section fifteen of chapter one hundred and forty-four, Barnes' code one thousand nine hundred and sixteen.

Be it enacted by the Legislature of West Virginia:

That section fifteen of chapter one hundred and forty-four of the code of West Virginia, Barnes' code, one thousand nine hundred and sixteen, be and is hereby amended and re-enacted to read as follows:

Section 15. If any male person carnally know a female, not
2 his wife, against her will by force, or if any male person who is
3 over the age of sixteen years carnally know a female, not his
4 wife, under that age, he shall be punished with death or with con-
5 finement in the penitentiary for life, or if the jury add to its ver-
6 dict a recommendation for mercy, with confinement in the peni-
7 tentiary for not less than five nor more than twenty years,
8 *provided*, always that this section shall not apply to any male
9 person under sixteen years of age who carnally knows a female
10 over twelve years of age with her free consent.

House Bill No. 315

(House Bill No. 315—Mr. Haymond.)

AN ACT relating to money deposited or advanced upon a contract for the use or rental of personal property, and fixing the penalty for violation thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. Whenever money shall be deposited or advanced on
2 a contract for the use or rental of personal property thereafter to
3 be delivered, as security for performance of the contract or to be
4 applied to payments upon such contract when due, and such con-
5 tract is between a citizen of the state of West Virginia and a non-
6 resident thereof, such money, with interest accruing there-
7 on, if any, until repaid or so applied, shall continue to be the
8 money of the person making such deposit or advance and shall
9 be a trust fund in the possession of the person with whom such de-
10 posit or advance shall be made and shall be deposited in a bank or
11 trust company located in the state of West Virginia and shall not

12 be mingled with other funds or become an asset of such trustee
13 until the said property is delivered, *Provided, however,*
14 that nothing herein contained shall apply to deposits or ad-
15 vance payment required by public service corporations under the
16 authority of the public service commission.

Sec. 2. Any person violating any provision of this act shall be
2 guilty of a misdemeanor and upon conviction shall be fined not
3 less than one hundred dollars and not more than one thousand dol-
4 lars, and, at the discretion of the court, may be confined in jail
5 not more than one year. The officer or agent of any corporation
6 who directly or indirectly participates in any transaction amount-
7 ing to a violation of this act shall upon conviction be punished as
8 aforesaid.

House Bill No. 79

(House Bill No. 79—Mr. McClintic, of Kanawha.)

AN ACT to fix the salaries of the elective state officers and other
than the governor and state superintendent of free schools, the
same being an emergency measure.

Be it enacted by the Legislature of West Virginia:

Section 1. That on and after March fourth, one thousand nine
2 hundred and twenty-one, the salary of the secretary of state, audi-
3 tor, treasurer, attorney general and commissioner of agriculture
4 shall be five thousand (\$5,000.00) dollars each per annum, payable
5 monthly out of the state treasury.

House Bill No. 182

(House Bill No. 182—Mr. Wells.)

AN ACT providing for the payment of salaries of the members of the
senate and house of delegates pursuant to section thirty-three of
article six of the constitution of the state, as amended.

Be it enacted by the Legislature of West Virginia:

Section 1. The salaries of the members of the senate and
2 house of delegates shall be five hundred dollars per annum, pay-
3 able out of the treasury as follows, to-wit:

4 The sum of two hundred and fifty dollars shall be payable on
5 the third Wednesday in January of each year and the sum of
6 two hundred and fifty dollars shall be payable on the third Wed-
7 nesday in March of each year.

House Bill No. 280

(House Bill No. 280—Mr. Strother.)

AN ACT authorizing the removal of officers and all employees that
have been or may hereafter be appointed by the governor, at the
will and pleasure of the governor.

Be it enacted by the Legislature of West Virginia:

Section 1. That all persons that have been, or that may here-
2 after be appointed to any office or position of trust, under the
3 laws of this state by the governor, whether their tenure of office
4 is fixed by law or not, may be removed by the governor at his will
5 and pleasure.

Sec. 2. In removing such officer, appointee, or employee, it
2 shall not be necessary for the governor to assign any cause for
3 such removal.

4 All acts or parts of acts inconsistent with this act are hereby
5 repealed.

House Bill No. 383

(Committee Substitute for House Bill No. 383.)

(By the Committee on the Judiciary.)

AN ACT to amend and re-enact section fifteen of chapter one hun-
dred and thirty-eight of the code, relating to legal notices.

Be it enacted by the Legislature of West Virginia:

That section fifteen of chapter one hundred and thirty-eight of
the code, be amended and re-enacted so as to read as follows:

Section 15. The price for publishing all advertisements and
2 publications required to be made by law, or by the order of a
3 court in any cause or proceeding therein, or by any provision of
4 a deed of trust, or where any publication is made pursuant to law,
5 shall not exceed two cents for each word for the first insertion,
6 and one cent a word for each subsequent insertion required to be
7 made; and if no newspaper in which such publication may be

8 made, will insert the same for the time required, or the price
9 aforesaid, then the notice may be published in some newspaper
10 issued from another county, and the notice shall be posted by the
11 person whose duty it is to have the publication made, at the front
12 door of the court house of the county in which the cause is pend-
13 ing, or the proceedings had, at least four weeks prior to the time
14 fixed for executing the order, decree or deed, or for the accom-
15 plishment of the purpose of said publication, and copies of said
16 notice shall be posted in at least four other public places in said
17 county at the same time, and a copy of the same shall be sent by
18 the person whose duty it is to post, by mail, postage paid, to each
19 party interested in such publication, directed to such person at his
20 last known post office address. In case of any publication made
21 by the order of a court in any case or proceeding therein, or by
22 any provision of a deed of trust, the price paid shall be taxed in
23 the bill of costs, and an affidavit shall be filed by the person pub-
24 lishing and posting the notice showing the fact that said notice
25 was published and posted as required by this section.

26 Any citizen, taxpayer, or the owner or publisher of any news-
27 paper entitled under the provisions of this act to have any pub-
28 lication made in his newspaper, which any county court or tri-
29 bunal created in lieu thereof, board of education, council of a
30 municipal corporation, or public officer shall fail or refuse to
31 make, may have a writ of mandamus to compel the making of
32 said publication; provided the newspaper is willing to accept
33 the price prescribed therefor by law.

House Bill No. 270

(House Bill No. 270—Mr. Capehart.)

AN ACT to prevent the crime of lynching and to provide punish-
ment and penalties therefor.

Be it enacted by the Legislature of West Virginia:

Section 1. That any collection of individuals, five or more
2 in number, assembled for the unlawful purpose of offering vio-
3 lence to the person or property of any one supposed to have been
4 guilty of a violation of the law, or for the purpose of exercising
5 correctional powers or regulative powers over any person or per-
6 sons by violence, and without lawful authority, shall be regarded
7 and designated as a "mob", or "riotous assemblage."

Sec. 2. That the term "serious injury", for the purposes of this act, shall include any injury to property which shall cause damage to the owner thereof, or any injury to the person which shall temporarily or permanently disable the person injured from earning a livelihood.

Sec. 3. The putting to death of any person within this state by a mob or riotous assemblage, shall be murder, and every person participating in such mob or riotous assemblage by which a person is put to death, shall be guilty of murder, and upon the conviction thereof shall be punished as provided by chapter one hundred and forty-four of Hogg's code of West Virginia.

Sec. 4. Any person or persons who shall compose a mob or riotous assemblage, with the intent to inflict damage or injury to the person or property of any individual charged with crime, or, under the pretense of exercising correctional powers over such person or persons by violence, and without lawful authority, shall be subject to a fine of not less than one hundred dollars, nor more than one thousand dollars, and may be imprisoned in the county jail not less than thirty days nor to exceed twelve months for each and every offense. Any person or persons who shall compose a mob or riotous assemblage and who inflict damage or injury to the person or property of any individual charged with crime shall be guilty of a felony and shall be imprisoned in the penitentiary not less than one year nor more than ten years for each and every offense.

Sec. 5. Any person or persons, composing a mob or riotous assemblage under the provision of this act, who shall by violence inflict serious injury to the property or to the person of any other person upon the pretense of exercising correctional powers or regulative powers over such person or persons, and without authority of the law, shall be deemed guilty of a felony, and upon the conviction thereof shall be punished by confinement in the penitentiary not exceeding five years; and any person suffering serious injury to his property or to his person by a mob, shall have an action against the county or city in which such serious injury is inflicted for such damages he may sustain, to an amount not to exceed five thousand dollars.

Sec. 6. The county in which such person charged with a crime, and wherein such person has been taken from a state, county or municipal officer and lynched and put to death, shall be subject to

4 a forfeiture of five thousand dollars, which may be recovered by
5 appropriate action therefor, in the name of the personal represen-
6 tative of the person put to death, for the use of his dependent
7 family or estate. Such action may be brought in any state court.
8 If such forfeiture is not paid upon recover of judgment therefor,
9 the court rendering such judgment, shall have power to enforce
10 the payment thereof, and may compel the levy and collection of
11 a tax therefor, or otherwise compel the payment thereof by
12 mandamus or other appropriate process, and every officer of such
13 county, and every other person who disobeys or fails to comply
14 with any lawful order of the court, shall be liable to punishment
15 according to law as for contempt and to any other penalties pro-
16 vided by law therefor.

Sec. 7. That in the event any person so put to death, who shall
2 have been taken from any state, county or municipal officer in one
3 county, by a mob or riotous assemblage of five or more persons,
4 and transported out of such county before such killing shall have
5 taken place, and the fact that such killing occurred out of said
6 county from which such person may have been taken, shall not re-
7 lieve the said county from which he was taken from such state,
8 county or municipal officer from the liability provided by this act.
9 And if the person, who shall be taken from such officer or
10 officers, be transported from, and put to death and lynched in
11 another county outside of the county wherein he was taken from
12 such officer or officers, no county through which such person may
13 have been transported, or in which such person has been lynched
14 and put to death, shall be liable to damages hereunder, unless it
15 is clearly shown that the officers or citizens in such county or
16 counties participated in, aided, abetted or encouraged such un-
17 lawful putting to death.

Sec. 8. That every state, county or municipal officer having
2 the duty or power of preservation or conservation of the peace
3 at the time and place of any such putting to death, or the
4 committing of serious injury to the person or to the property
5 as prescribed in this act, who having reasonable cause to believe
6 that the same is to be done, or is attempted to be done, and ne-
7 glects or omits to prevent the same, and every such officer from
8 whose custody such person may be taken by such mob or riotous
9 assemblage, and put to death by the same, or whose property or
10 person suffers serious injury at the hands of said mob or riotous

11 assemblage, shall be guilty of negligence in the discharge of his
12 official duty, and the county or city which shall have been sued
13 and compelled to pay damages as herein provided, may recover
14 same from such negligent officer, by appropriate action upon
15 his official bond.

Sec. 9. That in any prosecution for any of the offenses defined
2 herein, and any action for the forfeiture imposed as herein pro-
3 vided, every person who has participated in the lynching or in
4 the putting to death of, or in the infliction of great bodily
5 violence or serious injury to the person or property of any per-
6 son, without authority of the law, and every person who enter-
7 tains or has expressed any opinion in favor of lynching or in
8 the justification or excuse thereof, or whose character, conduct,
9 or opinions have been or are such as, in the judgment of the
10 court, may tend to disqualify him for impartial and unpreju-
11 diced trial of the cause, shall be disqualified to serve as a juror,
12 and in any such action or prosecution, any attorney, interested
13 in the case, shall be entitled to make full inquiry thereof, and to
14 produce evidence thereon; and every person who refuses to an-
15 swer any inquiry touching his qualifications on the ground that
16 he may thereby criminate himself shall be disqualified as afore-
17 said.

Sec. 10. All acts or parts of acts in conflict herewith are
2 hereby repealed.

House Bill No. 174

(House Bill No. 174—Mr. Post.)

AN ACT to prohibit the making, transmitting or circulating of any
false or untrue statements derogatory to the financial condition,
solvency, or financial standing of any bank, savings bank, bank-
ing association, or trust company doing business in this state,
and to prohibit the making, transmitting or circulating of any
such untrue or false statements as to any banking corporation
in this state, with the intent to depress the value of the stocks,
bonds or securities thereof, and fixing a penalty therefor.

Be it enacted by the Legislature of West Virginia:

Section 1. Whoever, directly or indirectly, wilfully and know-
2 ingly makes or transmits to another, or circulates, or counsels,

3 aids, procures, or induces another to make, transmit or circulate,
4 any false or untrue statement, rumor or suggestion derogatory
5 to the financial condition, solvency or financial standing of any
6 bank, savings bank, banking association, or trust company, doing
7 business in this state, or with intent to depress the value
8 of the stocks, bonds, or securities of any such banking
9 corporation, directly or indirectly, wilfully and knowingly makes
10 or transmits to another, circulates or counsels, aids, procures or
11 induces another to make, transmit or circulate any false or un-
12 true statement, rumor or suggestion derogatory to the financial
13 condition, or with respect to the earnings or management of the
14 business of any banking corporation, or resorts to any fraudulent
15 means with intent to depress in value the stocks, bonds or securi-
16 ties of any banking corporation, shall be guilty of a misdemeanor,
17 and, upon conviction shall be fined not to exceed three hundred
18 dollars and the cost of the prosecution, or to imprisonment in the
19 county jail not more than sixty days, or to both fine and imprison-
20 ment.

House Bill No. 257

(Senate Substitute for House Bill No. 257.)

(By the Committee on the Judiciary.)

AN ACT to empower the judges of courts to appoint shorthand reporters, defining the duties of such reporters, the uses to which the records made by them may be put, providing the manner of their payment, and repealing all acts or parts of acts inconsistent herewith.

Be it enacted by the Legislature of West Virginia:

Section 1. The circuit courts of the several judicial circuits
2 in this state, or the judges thereof in vacation, or the judges of
3 any intermediate, criminal or common pleas court, are hereby
4 empowered and authorized to employ and appoint competent
5 shorthand reporters to take and report, under such regulations
6 as said judges, or any of them, may prescribe, the proceedings
7 had and the testimony given in any case, either civil or criminal,
8 or in any other proceeding had in such court, including the taking
9 of testimony before the grand jury of such court for the use
10 of the prosecuting attorney of such court, and in proceedings

11 before the judge of such court in vacation, and otherwise to
12 aid the judge in the performance of his official duties.

13 Said reporter, when appointed, shall be qualified under oath,
14 and shall be authorized to attend the sessions of the grand jury,
15 but shall retire from said session when directed by the foreman,
16 or a majority of the grand jury, or when ordered to do so by
17 the court, and when the grand jury desires to consult or vote
18 upon any matters before them.

19 Said appointment and employment of such reporter may be
20 made by the judge of such court by an order entered of record,
21 and the reporter so appointed shall be designated as the "official
22 reporter" of the court for which he shall be appointed.

Sec. 2. It shall be the duty of such reporter to take full
2 shorthand notes of the testimony and proceedings in which his
3 services may be required, and such notes shall be deemed and
4 held to be official and the best authority in any matter in dispute,
5 and a transcript of the same, written out in longhand or type-
6 writing, made as herein provided, shall be used by the parties
7 to the cause in any further proceeding therein wherein the use
8 of the same may be required.

9 It shall be the duty of the said reporter to furnish a copy of
10 his notes, written out in longhand or typewriting, of the tes-
11 timony and proceedings, for the use and upon the request of
12 the judge, without extra charge in criminal cases, the copy to be
13 filed in the clerk's office.

Sec. 3. Said reporter shall furnish, upon request, to any
2 party to a case, a copy of the testimony or other proceedings,
3 written out in longhand or typewriting, and shall certify the
4 same as being correct, and shall be paid therefor at the rate of
5 twenty cents for each one hundred words so transcribed and
6 certified; (and for each carbon copy of such transcript, ordered
7 at the same time, he shall be paid six cents for each hundred
8 words so furnished.)

9 A copy of such testimony or proceedings, when certified by the
10 official reporter and by the judge of the court, shall be authentic
11 for all purposes, and may be used in making up the record on
12 appeal; and in all cases of appeal, such reporter shall also make
13 a carbon copy of the testimony and proceedings required, which
14 carbon copy shall be filed in the office of the clerk of the court
15 in which the trial or proceedings was had, to be used, if neces-

16 sary, in making up the record or appeal; and the said clerk shall
17 not be entitled to any fee for that part of the record in any
18 case wherein the testimony or proceedings so transcribed and
19 certified by said official reporter shall be used in said record.

20 And if upon appeal or writ of error the judgment or order
21 entered in the cause be reversed, the cost of such transcript shall
22 be taxed as other costs; and if said transcript be requested or
23 required for the purpose of demurring to the evidence, the cost
24 thereof shall be taxed in favor of the party prevailing on the
25 demurrer.

Sec. 4. Such official reporter shall receive such salary or other
2 compensation for his services and expenses as the judge may allow.
3 Such compensation and expenses in civil and misdemeanor cases
4 shall be certified by the court to the county court of the county in
5 which such services are rendered, and the same shall be paid
6 out of the county treasury. Such compensation and services in
7 felony cases shall be certified to the auditor of the state, and
8 paid by him out of the state treasury.

9 The clerk of the court in which such reporter is employed,
10 shall tax as a part of the costs, a reporter's fee of not less than
11 five dollars to be fixed by the court, for each case in which such
12 reporter was engaged; and when received by the clerk, such
13 costs shall be paid by him to the sheriff, and by the sheriff ac-
14 counted for and paid, in civil and misdemeanor cases, into the
15 county treasury, and in felony cases into the state treasury.

16 *Provided*, that if the salary be allowed in lieu of all other com-
17 pensation, it shall be paid quarterly, and, if the circuit consists
18 of more than one county, such salary shall be paid by the counties
19 composing the circuit in such proportion as the judge may fix,
20 by the several county courts of the counties constituting the
21 judicial circuit, out of their respective county treasuries. But
22 all fees for services rendered by the salaried official reporter in
23 the discharge of his duties as such, may be collected, and shall,
24 when collected by the sheriff or said official reporter, be paid into
25 the treasury of the county in which the services were rendered,
26 except that all fees paid by the state shall be refunded to the
27 state when collected, and it shall be the duty of such reporter to
28 make out, sign and deliver to the sheriff a fee bill in every case,
29 civil or criminal, giving the style thereof and the amount due,
30 and from whom, which amount may be collected or levied for by

31 the sheriff, and such fee bill shall have the force and effect of an
32 execution when levied. Said official reporter shall collect the
33 fees mentioned in section three of this act for any testimony or
34 record furnished by him to any party, and pay the same over
35 to the sheriff of the county in which the services were performed,
36 to be by him accounted for as herein provided.

Sec. 5. So far as any act or part of any act of the legislature
2 is inconsistent with this act or any of its provisions, they shall
3 not be applicable to the judge of the circuit court of the several
4 judicial circuits nor said official reporters, and to the extent
5 of such inconsistency, they are hereby repealed.

House Bill No. 472

(House Bill No. 472—Mr. Stathers.)

AN ACT to amend and re-enact sections one, eleven, twelve, thirteen
and eighteen of chapter fifty-five-b of Barnes' code of one thou-
sand nine hundred and sixteen; all relating to speculative
securities.

Be it enacted by the Legislature of West Virginia:

That sections one, eleven, twelve, thirteen and eighteen of
chapter fifty-five-b of Barnes' code of one thousand nine hundred and
sixteen be amended and re-enacted so as to read as follows:

Section 1. That no person or persons mentioned in section
2 six of this act, shall, as principal or agent, promote by advertise-
3 ment, circular, prospectus, or any other form of public or general
4 offering, inducement or persuasion, the issuance, transfer, dis-
5 tribution, sale or negotiation of any speculative securities, as
6 hereinafter defined in section two of this act, unless
7 prior thereto he, or they, shall have filed with the
8 auditor of this state, duly verified by his, or their,
9 oath or affirmation and accompanied by a filing fee
10 of twenty-five dollars, a statement containing the fol-
11 lowing; *provided, however,* that this section shall not
12 apply to a *bona fide* offer directly made to banks,
13 bankers, brokers or trust companies who deal in such
14 securities: (a) a copy of the securities so to be
15 promoted. (b) A copy of the charter, or article of

16 association, and by-laws, and such other information
17 as may be necessary to establish the character of
18 the promotion, and validity and value of the se-
19 curities, not otherwise referred to in this section.
20 (c) A statement in substantial detail of the assets
21 and liabilities of the person or company issuing such
22 securities and of any company or person guarantee-
23 ing the same, including specifically the total amount
24 of such securities and of any securities prior there-
25 to in interest or lien. (d) If such securities are
26 secured by mortgage or other lien, a copy of such
27 mortgage or of the instrument creating such lien,
28 and a competent appraisal or valuation of the property cov-
29 ered thereby with a specific statement of all prior liens thereon,
30 if any. (e) A full statement of facts showing the gross and net
31 earnings, actual or estimated, of any person or company issuing
32 or guaranteeing such securities, or of any property covered by any
33 such mortgage or lien. (f) All knowledge or information in the
34 possession of such promoter, relative to the character or value
35 of such securities, or of the property or earning power of the per-
36 son or company issuing or guaranteeing the same, including a
37 statement that such promoter has fully investigated the same
38 and believes the facts as stated to be reliable and true, with such
39 exceptions, if any, as may be stated. (g) A copy of any prospectus
40 or advertising matter which is to be used in connection with such
41 promotion. Such prospectus shall contain a clear and concise
42 statement of the amount of money estimated as necessary to carry
43 out the objects of the promotion; the price at which it is intended
44 to sell securities; the amount of promotion expense, commissions
45 and other overhead expenses contemplated, and the net amount
46 to be derived by the company from the sale of each share of stock,
47 bond, note, contract or other security, and no prospectus or other
48 advertising matter shall be used unless the same has been filed
49 hereunder. But in case no prospectus or advertising matter is
50 filed or used, a statement containing the information referred to
51 in this sub-section shall be filed with the auditor. (h) The
52 names and addresses of any agents by or through whom any
53 securities are to be sold in this state, and no agent shall be em-
54 ployed or act unless such statement with respect to them has been
55 filed hereunder. (i) The name and address of such promoter,

56 including the names and addresses of all partners, if the pro-
57 moter be a partnership, and the names and addresses of the direc-
58 tors or trustees (and of any and all persons owning ten per cen-
59 tum or more of the capital stock), if the promoter be a corpora-
60 tion or association.

61 Compliance by any person or persons mentioned in section six
62 of this act, with the provisions of this section, shall *ipso facto*
63 operate to appoint the auditor of this state as his, or their at-
64 torney in fact, irrevocable, for the specific purpose of receiving
65 service of notices and processes which may be issued against him
66 or them in any action arising out of the promotion, negotiation,
67 issuance, transfer, distribution, or sale by him, or them in this
68 state, or any of the speculative securities concerning which such
69 compliance is made, and the service of any such notice or process
70 on said auditor, or his acceptance or service endorsed thereon
71 shall be equivalent for all persons to, and shall be and constitute
72 due and legal notice of such notice or process upon any such
73 person or persons. Immediately after being served with or ac-
74 cepting any such process or notice, the auditor shall file a copy
75 of such process or notice with a note thereon endorsed at the
76 time of service or acceptance, as the case may be, and transmit
77 such process or notice by registered mail to the head office of such
78 person or persons. Suits and actions may be commenced against
79 such person or persons in the proper court of any county in this
80 state in which a cause of action may arise or in which the plain-
81 tiff may reside.

Sec. 11. Any person or persons mentioned in section six of
2 this act, and operating within the scope of sections one and two
3 of this act, may appoint one or more agents, but no agent shall
4 act, or attempt to act for or in behalf of his principal, until he
5 shall have first registered with the auditor as such agent, and for
6 each registration, such person or persons shall pay to said auditor
7 a registration fee of five dollars. Such registration shall author-
8 ize the agent to represent such person or persons so registering
9 him until the first day of July following, unless the registration
10 is theretofore cancelled and recalled by such person or persons, or
11 by the auditor, for failure to comply with the provisions of this
12 act, authority for which revocation or cancellation is hereby given
13 to such person or persons and to said auditor.

Sec. 12. Every person, or persons mentioned in section six

2 of this act, and operating within the scope of sections one and
3 two of this act, shall file at the close of business on June thir-
4 tieth of each year, and at such other times as may be required
5 by the auditor, a sworn statement in such form as may be pre-
6 scribed and furnished by the auditor, setting forth his or their
7 financial condition, the amount of assets and liabilities, and such
8 other information as the auditor may require. Every regular
9 statement of June thirtieth shall be accompanied by a filing
10 fee of ten dollars, and if such person or persons fail, neglect or
11 refuse to file his or their regular statement within fifteen days
12 from said date, or to file any other special report herein provided
13 for within thirty days from receipt of request therefor, then the
14 right of such person or persons to transact business in this state
15 shall be deemed to be in abeyance during the continuance of such
16 delinquency.

Sec. 13. The auditor shall have general supervision and con-
2 trol over any person or persons mentioned in section six of this
3 act, residing or doing business in this state, engaged in securing
4 subscriptions for, or in the issuance, transfer, sale, promotion,
5 negotiation or distribution of any speculative securities, and
6 every such person or persons shall be subject to examination by
7 said auditor, or by his duly authorized deputies, at any time he
8 may deem it advisable. The rights, powers and privileges of the
9 auditor in making such examinations shall be the same as now
10 provided with reference to the examination of insurance com-
11 panies by the insurance commissioner, and such person or persons
12 shall pay the expense of such examination, and their failure or
13 refusal to pay upon the demand of the auditor shall work a for-
14 feiture of their right to do business in the state. Upon com-
15 plaint of any person that any of the provisions of this act has
16 been violated, it shall thereupon become the duty of the auditor
17 to immediately investigate such complaint and if upon such in-
18 vestigation it would appear that this act has been violated in any
19 manner then the auditor shall diligently proceed to enforce the
20 provisions of this act in the manner hereinafter provided in section
21 fifteen of this act.

Sec. 18. All expenses and fees herein provided for shall be col-
2 lected by said auditor and shall be accounted for and turned into
3 the state treasury and the amount of expenses and fees so turned
4 into the state treasury are hereby re-appropriated to the said

5 auditor and such amount together with any appropriations that
 6 may be made shall be expended, or such part thereof as may be
 7 necessary, for the purpose of carrying this act into effect; and
 8 the said auditor is hereby authorized to appoint such additional
 9 investigators and assistants, not to exceed five in all, as may be
 10 necessary to carry this act into full force and effect. All money
 11 actually and necessarily paid out, or any expenses incurred by the
 12 said auditor or any investigator or assistant under his direction,
 12 under this act, shall be paid by the state treasurer out of such
 14 sums for expenses and fees received under this act and any other
 15 appropriations made for the purpose, upon the state auditor's
 16 warrant, to be issued upon vouchers containing an itemized ac-
 17 count of the salaries or expenses for which the same are used.
 18 All expenses and fees which have been collected by the auditor
 19 under the provisions of chapter fifteen of the acts of one thousand
 20 nine hundred and thirteen, and now remaining in the state treas-
 21 ury, are hereby appropriated to the said auditor for the pur-
 22 poses of this act.

House Bill No. 386

(House Bill No. 386—Mr. McClintic, of Kanawha.)

AN ACT to empower the governor to make temporary appointments
 to the office of United State senator in case of vacancies, until
 the same shall be filled by election.

Be it enacted by the Legislature of West Virginia:

Section 1. When any vacancy shall happen in the represen-
 2 tation of this state in the senate of the United States, the gov-
 3 ernor shall have power to fill such vacancy by temporary appoint-
 4 ment of some qualified citizen of this state, until such vacancy
 5 shall be filled by an election held for the purpose, at the next gen-
 6 eral election thereafter.

Sec. 2. When the governor shall make any such temporary ap-
 2 pointment to fill such vacancy, he shall cause a credential, under
 3 his hand and the great seal of this state, to be delivered to the
 4 person so appointed, to the following effect:

5 STATE OF WEST VIRGINIA, to-wit:

6 A. B., who was according to the constitution
 7 of the United States, a senator from this state for the term ending

8 on the third day of March, in the year.....,
 9 having died (resigned, or otherwise, as the case may be), I,.....
 10, governor of the state of West
 11 Virginia, do, by virtue of the said constitution and of the statutes
 12 passed in pursuance thereof, appoint C. D. of the county of
 13, a senator from this state in
 14 the senate of the United States, until the said office is filled by
 15 election as provided by law.

16 Given under my hand and the great seal of the state, this the
 17 day of.....

Sec. 3. Section nineteen of chapter forty-two of the acts of one
 2 thousand eight hundred and eighty-two, being section nineteen of
 3 chapter seven of Barnes' code of West Virginia of one thousand
 4 nine hundred and sixteen, is hereby repealed.

House Bill No. 443

(Committee Substitute for House Bill 443.)

(By the Committee on the Judiciary.)

AN ACT providing for the revision, codification and indexing, with
 suitable marginal citations and references, of the statute law
 of West Virginia; for the printing, publication and disposition
 thereof; to appoint commissioners therefor and to provide for
 the necessary clerical assistance to said commissioners.

WHEREAS, Thirty-nine years have elapsed since the last revision
 and codification of the statute law of West Virginia, and there exists
 an urgent need for a revision and codification thereof; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. The governor shall, from a list of ten lawyers, citi-
 2 zens of West Virginia, who shall be nominated by the supreme
 3 court of appeals of West Virginia, appoint three commissioners
 4 to revise, codify and index, with suitable marginal
 5 citations and references, the general statute law of this state,
 6 whose duty it shall be to collate, revise, and codify all the gen-
 7 eral statutes, civil and criminal, of this state, which may be in
 8 force at the time of the completion of their work, and properly in-
 9 dex the same. They shall arrange all the statutes under proper ti-
 10 tles and chapters, and divide the whole code into sections, number-

11 ing them consecutively from one to the end or by chapters having
12 regard to the divisions into titles and chapters; they shall make or
13 cause to be made such foot-notes, marginal citations or references
14 as they may deem proper or helpful to a clear understanding of the
15 statutes and prefix to each chapter a table, stating briefly the sub-
16 ject thereof, and inserting or omitting such captions to sections as
17 they may deem fit; they shall in all respects execute and com-
18 plete the revision and codification as hereby directed in such man-
19 ner, as in their opinion, will harmonize the general statutes and
20 make the code of statute law, as existing at the close of their
21 work, as complete as possible, and they shall supervise the pub-
22 lication of the first edition of such revision and codification
23 of the statutes, and examine, read and correct the proof thereof,
24 until the said work shall have been fully completed and published,
25 including a proper index.

Sec. 2. The board of public works of this state shall assign
2 at the capitol of the state convenient office quarters, and furnish
3 the same, for the use of said commissioners while engaged in
4 said work. The said commissioners shall have power to appoint
5 a competent secretary and to employ such additional clerical help
6 as may be necessary, one of whom shall be a competent proof
7 reader and to purchase such stationery and supplies
8 as shall be necessary. Each of the said commissioners shall
9 receive the sum of six thousand dollars per annum while ac-
10 tually engaged upon said revision and codification and the said
11 commissioners and all clerical help shall be paid monthly. War-
12 rants for the payment of the moneys hereby authorized to be ex-
13 pended shall be drawn by the auditor of the state, upon the
14 treasurer of the state on the order of said commissioners, or a
15 majority of them, approved by the governor.

Sec. 3. The secretary of state shall furnish to each of the
2 commissioners such copies of the several codes of the statute law
3 of this state, and of the acts of the legislature of this state,
4 as they may need in the prosecution of their work.

Sec. 4. The said commissioners shall make report of their
2 work when complete to the next legislature of this state, and, in the
3 meantime, they are hereby authorized to deliver the whole or
4 any part of their report at different times to the public printer,
5 who shall print five hundred copies thereof for the use of the
6 legislature.

Sec. 5. The said revision and codification, together with the 2 index, citations, and references, shall be published by the sup- 3 erintendent of public printing under the supervision, advice and 4 direction of the said commissoners, in one volume, if practicable, 5 printed on good paper, in such types as may be prescribed by 6 the commissioners, well bound in calf, buckram or leather, and 7 lettered on the back, "Code of West Virginia". The said code 8 shall also contain the Declaration of Independence, the con- 9 stitution of the United States, and its amendments; the 10 laws of the United States governing naturalization, the 11 constitution of West Virginia, and its amendments, and a 12 complete index to the same, and it shall be the duty of the said 13 commissioners to prepare the same for publication.

Sec. 6. The secretary of state shall secure the copyright of 2 the said revision, and codification for the use and benefit of the 3 state of West Virginia.

Sec. 7. The superintendent of public printing, in having the 2 printing, binding and lettering aforesaid done, and in attending 3 to the publication of said revision and codification, shall in all 4 respects conform to the requirements of the law in regard to pub- 5 lic printing.

Sec. 8. When the said revision and codification of the statute 2 law of this state shall have been completed and adopted by the 3 legislature not over five thousand copies thereof shall, in the 4 discretion of the revisers be printed by the superintendent of 5 public printing without annotations and not over five thousand 6 copies, with annotations, and the same shall be disposed of as 7 hereinafter provided; and if at any time the said copies hereby 8 authorized printed shall become exhausted, then the said secretary 9 of state is hereby empowered to have printed from time to time as 10 many copies of said code as he may deem requisite, but not to 11 exceed ten thousand copies at any one time.

Sec. 9. The said revision and codification of the statutes, 2 when so completed and adopted by the legislature of West Vir- 3 ginia, and published as in this act provided, shall be received as 4 evidence for any purpose for which the original acts could be 5 received, and with as much effect.

Sec. 10. The said commissioners shall, within six months af- 2 ter the publication of the revision and codification of the statute

3 laws aforesaid, prepare and deliver to the superintendent of public printing, for publication in conformity with the requirements of the law in respect to public printing, such notes as they may deem useful in explanation of the changes made in the law by said revision and codification. The said notes, notations and citations shall be printed and bound in a separate volume in the same manner and form as the said code is herein required to be printed and bound, and the said commissioners shall superintend the publication thereof, and such publications shall be disposed of as shall be provided by law, of which five hundred copies thereof shall be printed and bound, and as many more as said secretary of state may deem requisite, not to exceed five thousand copies at any one time.

Sec. 11. It shall be the duty of the city council of each city, the town council of each town, and the commissioners of the county court of each county of this state to purchase from the secretary of state a sufficient number of the copies of said revision and codification, without annotations, for distribution in the following manner: A copy thereof to the mayor of each city or town; a copy to the clerk of the city and town council for use for the council only; a copy to each sheriff, clerk of the county court, clerk of the circuit court, and clerks of other courts of record, judges of the circuit, criminal and intermediate courts; the prosecuting attorney, justices of the peace; superintendent of schools, assessor, county road engineer and surveyor, and to county superintendent of free schools. The secretary of state, shall furnish free of charge, a copy of said code, to the head of all departments of state and to the clerk and judges of the supreme court of the state.

The copies of the code so furnished to the officers so provided shall remain the property of the city or town and county, and state, as the case may be.

Sec. 12. The secretary of state shall be authorized to dispose of the surplus of copies of said revision and codification in his hands, after complying with the requirements of this act, at the actual cost of same plus one dollar. All moneys realized from the sale and disposition of said revision and codification and commissioners' notes, shall be paid into the public treasury.

Sec. 13. In the event of the death, disability, resignation, or removal of any of the commissioners appointed under this act

3 before the completion of said revision, his successor shall be ap-
4 pointed in the same manner provided in the first section of this
5 act.

House Bill No. 456

(House Bill No. 456—Mr. Barnes.)

AN ACT to amend and re-enact chapter forty-eight-a of the code of
West Virginia by the addition thereto of section twelve-a and
twelve-b.

Be it enacted by the Legislature of West Virginia:

That chapter forty-eight-a of the code of West Virginia be amended
and re-enacted by the addition thereto of sections twelve-a and
twelve-b as follows:

Section 12-a. If any officer named in section eleven shall find
2 any building or other structure, of three stories or more in height,
3 except private dwellings, which by reason of its construction, use
4 situation or for any other cause is liable to cause loss of life in the
5 event of its destruction by fire, they shall have power to order the
6 installation of fire escapes and the necessary exits thereto.

Sec. 12-b. Any officer named in section eleven shall have the
2 power to issue regulations and orders to owners and proprietors
3 of moving picture shows and theatres providing for necessary
4 exits and aisles, or any other order for the purpose of safeguard-
5 ing lives. *However*, if the owner or proprietor of any building or
6 structure indicated in section twelve-a, or the owner or proprietor
7 of any moving picture show or theatre indicated in section twelve-b
8 deems himself aggrieved by an order of a subordinate officer named
9 in section eleven, he shall have the same right of appeal to the
10 state fire marshal as provided in section twelve.

House Bill No. 467

(House Bill No. 467—Mr. Strother.)

AN ACT to amend and re-enact section fourteen of chapter ten-a of
Barnes' code, one thousand nine hundred and eighteen, relating
to official bonds.

Be it enacted by the Legislature of West Virginia:

That section fourteen of chapter ten-a, of Barnes' code of one thousand nine hundred and eighteen, be amended and re-enacted to read as follows:

Bonds of County Officers.

Section 14. Every clerk of a circuit court shall give bond with good security, to be approved by the circuit court, or the judge thereof, in vacation; and every sheriff, surveyor of lands, clerk of a county court, or other tribunal established in lieu thereof every assessor, notary public, justice of the peace and constable shall give bond with good security, to be approved by the county court, or other tribunal established as aforesaid, of the county in which such officer is to act. The penalty of the bond of the clerk of the circuit court shall not be less than three thousand nor more than ten thousand dollars; of the sheriff not less than twenty thousand or more than one hundred and fifty thousand dollars; of surveyor of lands not less than one thousand nor more than three thousand dollars; of clerk of the county court or other tribunal established as aforesaid, not less than three thousand nor more than ten thousand dollars; of assessor not less than two thousand nor more than five thousand dollars; of notary public not less than two hundred and fifty nor more than one thousand dollars; of a justice of the peace not less than two thousand nor more than five thousand dollars; and of a constable not less than two thousand nor more than ten thousand dollars; *provided, however*, that the bond herein required to be given by a notary public may be given before the clerk of the county court, in vacation of said court, and approved by it at its next regular session; *provided, further*, that the re-enactment of this section shall not be construed as changing the amount of bond required of any officer named herein where the same has been changed by special statute dealing with any of said officers.

House Bill No. 477

(House Bill No. 477—Mr. Aleshire.)

AN ACT to amend and re-enact sections twenty-five, twenty-six, twenty-seven, twenty-eight and twenty-nine of chapter fifty-four

of the code of West Virginia, relating to the formation, rights and powers of building associations.

Be it enacted by the Legislature of West Virginia:

That sections twenty-five, twenty-six, twenty-seven, twenty-eight and twenty-nine of chapter fifty-four of the code of West Virginia, relating to the formation, rights and powers of building associations, be amended and re-enacted so as to read as follows:

Building and Loan Associations; Incorporation; Powers.

Section 25. Any number of persons, not less than nine, may form a building and loan association for the purpose of encouraging industry, frugality and home building, and saving among its members. Building and loan associations formed under this chapter shall have the right and power of loaning to its stockholders thereof, the moneys accumulated from time to time, as well as the right and power to purchase land or erect houses, and to sell, convey, lease or mortgage the same at their pleasure, to their stockholders, or others for the benefit of their stockholders. Such associations may acquire, hold, convey and encumber all such property, real and personal, as may be taken as security, or may be otherwise transferred to it in the due course of its business, and may secure the payment of loans and the performance of the other conditions upon which loans are to be made, or the payment of the purchase money for and property sold, by taking personal security, or by a mortgage or deed of trust, upon real or personal property, or by a transfer or pledge of its stock.

Loans—Premium.

Sec. 26. Every such association shall have the power to provide by its by-laws for selling to the stockholders the money in the treasury, at or above a minimum premium; the minimum premium and the mode of selling or loaning the money to stockholders to be fixed by the by-laws. But such premium must be a certain definite sum, fixed and determined at the time of the making of the loan. The by-laws of every such association shall set forth whether the premium on any such loan shall be deducted therefrom in advance or be paid in periodical installments. But whether the premium be deducted from the loan, or paid in periodical installments, the transaction shall not be deemed usurious, although any and all the dues, fines, premium

13 and interest shall exceed the legal rate of interest on the amount
14 of money received by the stockholders.

Dues, Interest and Fines.

Sec. 27. Every such association may levy, assess and collect
2 from its stockholders, periodical dues upon every share of its
3 stock; the amount of such dues to be fixed by the by-laws; but no
4 periodical payment to exceed two dollars upon each share; and
5 said stock may be paid off and retired as the by-laws shall direct;
6 and may levy, assess and collect from the members to whom loans
7 have been made, interest upon the par value of the shares so
8 loaned; and may levy, assess and collect fines for the non-payment
9 of periodical dues, or for failure to comply with or perform any
10 other obligation or duty to the association. The amount of the
11 respective fines shall be fixed by the by-laws, and they shall be
12 imposed under regulations to be made by the by-laws; but such
13 fines shall be uniform, and where they are imposed for default
14 in the payment of dues, shall be in proportion to the amount of the
15 dues for the failure to pay which they are imposed; but no mem-
16 ber shall be fined more than once for the same default.

Repayment of Loans; Withdrawal; Default.

Sec. 28. A borrower from such association may repay the loan
2 at any time; and in case of the repayment thereof before the ma-
3 turity of the shares pledged for said loan, there shall be refunded

Sec. 29. Every such association shall adopt by-laws, which
2 shall embrace all the provisions of the four preceding sections,
3 and such further provisions for its government and the manage-
4 ment of its business, not inconsistent with these sections, as it may
5 deem proper.
6 to such borrower, in case the premium shall have been deducted
7 in advance, such proportion of the premium paid, as the by-laws
8 may determine; but the borrower shall receive the withdrawing
9 value of the shares pledged for said loan, and the shares shall
10 revert back to the association. Stockholders withdrawing volun-
11 tarily shall receive such proportions of the profits of the associa-
12 tion, or such rate of interest as may be prescribed by the by-laws.
13 In case of default of a borrower to pay dues, interest or premium,
14 for the period of three months, payment of the same, together
15 with the full principal of the loan, may be enforced by pro-

14 ceedings on the securities according to law; and the money so
15 received shall be paid into the treasury of the association; and
16 if the moneys so recovered shall exceed the amount it would have
17 required to repay the loan under the first part of this section, to-
18 gether with all the expenses incurred by the association, such ex-
19 cess shall be paid to such borrower.

House Bill No. 15

(Committee Substitute for House Bill No. 15.)

(By the Committee on Labor.)

AN ACT to regulate the practice of the profession of engineering, and
to create a state board of registration for engineers, and to pre-
scribe penalties for the violation of the provisions thereof.

Be it enacted by the Legislature of West Virginia:

That the profession of engineering be regulated, and that
there be created a state board of registration, and that the
rules and regulations and penalties for violation thereof shall be as
follows:

Section 1. In order to safeguard life, health and property, any
2 person practicing or offering to practice as a professional engi-
3 neer in this state shall hereafter be required to submit evi-
4 dence that he is qualified so to practice, and shall be regis-
5 tered as hereinafter provided, and from and after six months
6 after this act becomes effective, it shall be unlawful for any per-
7 son to practice or to offer to practice in this state as a professional
8 engineer, hereinafter called engineer, except under the provisions
9 thereof.

Sec. 2. Nothing in this act shall be construed as requiring
2 registration by an individual, firm or corporation for the purpose
3 of practicing engineering on property owned or leased by said in-
4 dividual, firm or corporation, nor as requiring registration by any
5 person, who prior to the time of the passage of this act was engaged
6 in the practice of engineering; *provided, however,* such person
7 shall not represent himself as, or use the title of "registered pro-
8 fessional engineer" unless such person is qualified by registration
9 under this act.

Sec. 3. To carry out the provisions of this act there is hereby
2 created a state board of registration for engineers hereinafter

3 called the board, consisting of five members, who shall
4 be appointed by the governor within thirty days after this
5 act becomes effective. All members shall be registered engi-
6 neers. Not more than one member of the said board
7 shall be from the same branch of the profession of
8 engineering. The members of the first board shall
9 be appointed to serve for the following terms: Two
10 members for one year; two members for two years; one member for
11 three years; said terms ending on the thirtieth day of June of the
12 succeeding years. On the expiration of each of said terms, the
13 term of office of each newly appointed or reappointed member of
14 the board shall be for a period of four years and shall terminate
15 on the thirtieth day of June. Each member shall hold over after
16 the expiration of his term until his successor shall have been duly
17 appointed and qualified. The governor may remove any member
18 of the board at his will and pleasure. Vacancies in the member-
19 ship of the board, however created, shall be filled by appointment
20 by the governor for the unexpired term. The chief office of said
21 board shall be at the capitol.

Sec. 4. Each member of the board shall be a citizen of the
2 United States and a resident of this state at the time of his ap-
3 pointment. He shall have been engaged in the practice of his pro-
4 fession for at least five years and shall have been in responsible
5 charge of work for at least three years. He shall be a member in
6 good standing of a recognized society of engineers, and except as
7 provided in section five shall be a registered engineer.

Sec. 5. Each member of the board shall receive a certificate of
2 appointment from the governor, and before beginning his term
3 of office he shall file with the secretary of state the constitutional
4 oath of office. Each member of the board first created shall re-
5 ceive a certificate of registration under this act from the governor
6 of the state. The board or any committee thereof shall be en-
7 titled to the services of the attorney general, in connection with
8 the affairs of the board, and the board shall have power to com-
9 pel the attendance of witnesses, may administer oaths and may
10 take testimony and proofs concerning all matters within its juris-
11 diction. The board shall adopt and have an official seal which
12 shall be affixed to all certificates of registration granted; and shall
13 make by-laws and rules not inconsistent with law needed in per-
14 forming its duty.

Sec. 6. The board shall hold a meeting within thirty days after its members are first appointed, and thereafter shall hold at least two regular meetings each year. Special meetings shall be held at such times as the by-laws of the board may provide. Notice of all meetings shall be given in such manner as the by-laws may provide. The board shall elect annually from its members a president and a secretary. A quorum of the board shall consist of not less than three members.

Sec. 7. The secretary of the board shall receive and account for all moneys derived from the operation of this act and shall pay them to the state treasurer, who shall keep such moneys in a separate fund to be known as the "Fund of the board of registration for engineers", which fund shall be continued from year to year and shall be drawn against only for the purpose of this act as herein provided.

Each member of the board shall receive ten dollars per day for attending sessions of the board or of its committees, and for the time spent in necessary travel, and, in addition, shall be reimbursed for all necessary traveling, incidental and clerical expenses incurred in carrying out the provisions of this act. All expenses certified by the board as properly and necessarily incurred in the discharge of its duties, including authorized compensations, shall be paid out of said fund on the warrant of the auditor of the state issued on requisitions signed by the chairman and the secretary of the board; *provided, however*, that at no time after this act shall have been in effect for one year shall the total of warrants issued exceed the total amount of funds accumulated under this act. The secretary of the board shall give a surety bond satisfactory to the state treasurer conditioned upon the faithful performance of his duties. The premium on said bond shall be regarded as a proper and necessary expense of the board.

Sec. 8. The board shall keep a record of its proceedings and a register of all applicants for registration showing for each, the date of application, name, age, educational and other qualifications, place of business and place of residence, whether or not an examination was required and whether the applicant was rejected, or a certificate of registration granted, and the date of such action. The books and register of the board shall be *prima facie* evidence of all matters recorded therein. A roster showing the names and places of business and of residence of all registered

10 engineers shall be prepared by the secretary of the board
11 during the month of July of each year; such roster shall
12 be printed out of the funds of the board as provided in sec-
13 tion seven. On or before the thirtieth day of September of each
14 year the board shall submit to the governor a report of its trans-
15 actions for the preceding year, together with a complete state-
16 ment of the receipts and expenditures of the board, certified by the
17 president and the secretary, and a copy of the said roster of reg-
18 istered engineers. A copy of this report shall be filed with the
19 secretary of state.

Sec. 9. The board shall, on application therefor on prescribed
2 form, and the payment of a fee of twenty dollars, issue a certificate
3 of registration as an engineer.

4 (a) To any person who submits evidence satisfactory to the
5 board that he is fully qualified to practice engineering.

6 (b) To any person who holds a like unexpired certifi-
7 cate of registration issued to him by proper author-
8 ity in the District of Columbia, in any state or ter-
9 ritory of the United States, or in any province
10 of Canada, in which the requirements for the reg-
11 istration of engineers are of a standard satisfactory
12 to the board.

13 *Provided, however,* that no person shall be eligible
14 for registration who is under twenty-one years of
15 age, who is not a citizen of the United States or
16-17 Canada, or who has not made declaration of his
18 intention to become a citizen of the United States, who does not
19 speak and write the English language, who is not of good character
20 and repute, and who has not been actively engaged for six or more
21 years in engineering work of a character satisfactory to the
22 board. However, each year of teaching, or of study satis-
23 factory completed of engineering in a school of engineering
24 of standing satisfactory to the board, shall be considered equiva-
25 lent to one year of such active engagement.

26 Unless disqualifying evidence be before the board, the following
27 facts established in the application shall be regarded as *prima*
28 *facie* evidence satisfactory to the board, that the applicant is fully
29 qualified to practice engineering:

30 (a) Ten or more years of active engagement in engineering or
31 land surveying work;

32 (b) Graduation, after a course of not less than four years
33 in engineering, from a school or college approved by the board as
34 of satisfactory standing, and an additional four years of active
35 engagements in engineering;

36 (c) Full membership in the American Association of Engi-
37 neers, American Institute of Chemical Engineers, American So-
38 ciety of Civil Engineers, American Institute of Electrical Engi-
39 neers, American Society of Mechanical Engineers, American Insti-
40 tute of Mining and Metallurgical Engineers, Society of Naval
41 Architects and Marine Engineers, or such other national or state
42 engineering societies as may be approved by the board, the re-
43 quirements for full membership in which are not lower than the
44 requirements for full membership in the professional societies
45 named above.

46 Applicants for registration, in cases where the evidence origi-
47 nally presented in the application does not appear to the board
48 conclusive or warranting the issuance of a certificate, may present
49 further evidence, which may include the results of a required ex-
50 amination, for the consideration of the board.

51 In determining the qualifications of applicants for registra-
52 tion a majority vote only of the board shall be required.

53 In case the board denies the issuance of a certificate to an ap-
54 plicant, the registration fee deposited shall be returned by the
55 board to the applicant.

56 Certificates of registration shall expire on the thirtieth day of
57 June following their issuance or renewal and shall become in-
58 valid on that date unless renewed. It shall be the duty of the sec-
59 retary of the board to notify by mail every person registered here-
60 under of the date of the expiration of his certificate and the
61 amount of the fee required for its renewal for one year; such
62 notice shall be mailed at least one month in advance of the date
63 of the expiration of said certificate. Renewal may be effected
64 at any time during the month of June by payment of a fee of ten
65 dollars. The failure on the part of any registrant to renew his cer-
66 tificate annually in the month of June as required above shall not
67 deprive such person of the right of renewal thereafter, but the fee
68 to be paid for the renewal of a certificate after the month of June
69 shall be increased ten per cent for each month, or fraction of a
70 month, that payment for renewal is delayed; *provided, however,*
71 *that the maximum fee for a delayed renewal shall not exceed twice*
72 *the normal fee.*

Sec. 10. The board shall have the power to revoke the certificate of registration of any engineer registered hereunder who is found guilty of any fraud or deceit in obtaining a certificate of registration or of gross negligence, incompetency or misconduct in the practice of engineering. Any person may prefer charges of such fraud, deceit, negligence, incompetency or misconduct against any engineer registered hereunder; such charges shall be in writing and sworn to by the complainant and submitted to the board. Such charges unless dismissed without hearing by the board as unfounded or trivial, shall be heard and determined by the board within three months after the date on which they are preferred. A time and place for such hearing shall be fixed by the board. A copy of the charges, together with a notice of the time and place of hearing, shall be legally served on the accused at least thirty days before the date fixed for such hearing, and in the event that such service can not be effected thirty days before such hearing then the date of hearing and determination shall be postponed as may be necessary to permit the carrying out of this condition. At said hearing the accused shall have the right to appear personally and by counsel and to cross-examine witnesses against him and to produce evidence and witnesses in his defense. If after said hearing three or more members of the board vote in favor of finding the accused guilty of any fraud or deceit in obtaining a certificate, or of gross negligence, incompetency or misconduct in the practice of engineering, the board shall revoke the certificate of registration of the accused.

The board may re-issue a certificate of registration to any person whose certificate has been revoked, provided three or more members of the board vote in favor of such re-issuance for reasons the board deem sufficient.

The board shall immediately notify the secretary of state and the clerk of each county, town, and city in the state, of its findings in the case of the revocation of a certificate of registration or of its re-issuance of a revoked certificate of registration.

A new certificate of registration to replace any certificate lost, destroyed or mutilated, may be issued, subject to the rules and regulations of the board. A charge of one dollar shall be made for such re-issuance.

Sec. 11. The issuance of a certificate of registration by this board shall be evidence that the person named therein is entitled to all rights and privileges of a registered engineer while the said certificate remains unrevoked or unexpired.

Each registrant hereunder may, upon registration, obtain a seal of the design authorized by the board, bearing the registrant's name and the legend "Registered Professional Engineer". Plans, specifications, plats and reports issued by a registrant may be stamped with the said seal during the life of registrant's certificate, but it shall be unlawful for any one to stamp or seal any documents with said seal after the certificate of the registrant named thereon has expired, or has been revoked unless said certificate shall have been renewed or re-issued.

Sec. 12. Any person who, after this act has been in effect six months, is not legally authorized to practice as an engineer in this state according to the provisions of this act and shall so practice, or offer so to practice in this state except as provided in section thirteen of this act, and any one presenting or attempting to file as his own the certificate of registration of another, or who shall give false or forged evidence of any kind to the board, or to any member thereof, in obtaining a certificate of registration, or who shall falsely impersonate any other practitioner, of like or different name, or who shall use or attempt to use an expired or revoked certificate of registration, shall be deemed guilty of a misdemeanor and shall, for each such offense of which he is convicted, be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment for three months, or by both fine and imprisonment.

Sec. 13. The following shall be exempted from the provisions of this act:

(a) Persons offering to practice in this state as an engineer, by any one not a resident of and having no established place of business in this state.

(b) Practice as an engineer in this state by any person not a resident of and having no established place of business in this state, when this practice does not aggregate more than thirty days in any calendar year; *provided*, that said person is legally qualified for such professional service in his own state or country.

12 (c) Practice as an engineer in this state by any person not
13 a resident of and having no established place of business in this
14 state, or any person resident in this state, but whose arrival in
15 the state is recent; *provided, however*, such person shall have
16 filed an application for registration as an engineer, and shall have
17 paid the fee provided for in section nine of this act. Such exemp-
18 tion shall continue for only such reasonable time as the board
19 requires in which to consider and grant or deny the said applica-
20 tion for registration.

21 (d) Engaging in engineering work as an employee of a regis-
22 tered engineer, or as an employee of an engineer, au-
23 thorized by paragraphs two and three of this section;
24 *provided*, that said work may not include responsible charge of
25 design or supervision.

26 (e) Practice of engineering by any person not a resident of
27 and having no established place of business in this state, as a con-
28 sulting associate of an engineer registered under the provisions of
29 this act; *provided*, the non-resident is qualified for such profes-
30-31 sional service in his own state or country.

32 (f) Practice of engineering solely as an officer or as an em-
33 ployee of the United States or of a common carrier engaged in
34 interstate business.

35 (g) Practice of engineering solely as an employee of this state
36 or any political sub-division thereof, or of any corporation, firm
37 or individual when such engineer's time is devoted exclusively to
38 such employment, and such engineer does not offer his services
39 to the public generally for hire.

40 (h) Any engineer who shall not represent himself as, or use
41 the title of, "Registered Professional Engineer", unless such per-
42 son is qualified by registration under this act.

Sec. 14. A corporation or partnership may engage in the
2 practice of engineering in this state provided the person or per-
3 sons connected with such corporation or partnership in respon-
4 sible charge of such practice is or are registered as herein required
5 of engineers, or is or are otherwise authorized to practice. The
6 same exemptions shall apply to corporations and partnerships as
7 apply to individuals under this act.

Sec. 15. All laws or parts of laws in conflict with the provisions
2 of this act are hereby repealed.

House Bill No. 176

(House Bill No. 176—Mr. Wysong.)

AN ACT to define the qualifications for the practice of architecture in the state of West Virginia and to provide for the examination and registration of architects.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created a board of examiners and registration of architects, the members of which and their successors shall be appointed by the governor and which board, subject to the approval of the governor, shall make rules for the examination and registration of applicants for the certificates provided for by this act.

Sec. 2. The said board shall be appointed within ten days after this act shall become a law, and shall be composed of five architects who have been in active practice in the state of West Virginia for not less than ten years previous to their appointment. One member of said board shall be designated by the governor as chairman *pro tempore* until such time as permanent organization is effected.

Sec. 3. In making the first appointments under this act, the governor shall appoint one of the members of said board to hold office for a period of one year; one for two years; one for three years; one for four years, and one for five years; thereafter all appointments shall be for a period of five years. In case a successor is not appointed at the expiration of the term of any member, such member shall hold office until his successor has been duly appointed and has qualified. In the event of any vacancy occurring in the membership of said board in any manner other than by expiration of time, the governor shall fill said vacancy by appointment for the unexpired term.

Sec. 4. The members of said board shall, before entering upon the discharge of their duties, subscribe to and file with the secretary of state the constitutional oath of office.

Sec. 5. The board of examiners and registration of architects shall meet for organization within thirty days after its appointment, and shall elect from its membership a president and secretary.

Sec. 6. The said board shall adopt all necessary rules, regulations, and by-laws not inconsistent with this act, and the constitution and laws of this state and of the United States, to govern its times and places of meeting for organization and reorganization and the holding of examinations, the length of the terms of its officers and all other matters requisite to the exercise of its powers, the performance of its duties, and the transaction of its business under the provisions of this act. At least one meeting shall be held each year for the purpose of examination and for registration.

Sec. 7. Three members of said board shall constitute a quorum, but no action at any meeting shall be taken without at least three votes in accord.

Sec. 8. The secretary of the said board shall keep a true record of all proceedings of the board and may employ such clerical assistance as the board may deem necessary.

Sec. 9. The said board shall be charged with the duty of enforcing the provisions of this act, and may incur such expense as shall be necessary, all of which expenses shall be paid only out of the revenue arising from this act in the manner hereinafter mentioned and provided.

Sec. 10. The said board shall file annually with the governor a full report of its operations.

Sec. 11. All fees provided for by this act shall be paid to and receipted for by the treasurer of the state of West Virginia and shall not be used for any purpose other than the purposes of this act.

The expenses of the board of examiners and registration of architects, subject to the approval of the state treasurer, shall be paid by him upon written order and warrant of the president and secretary of said board.

Sec. 12. Each member of the said board shall be entitled to five dollars per diem while actually engaged in attendance at meetings or in conducting examinations.

Sec. 13. The members of the said board shall each receive five cents for each mile travelled in going to and returning from the place of each board meeting by the most direct route.

Sec. 14. Any person residing in or having a place of business in this state and wishing to practice architecture in this state, who,

3 before this act goes into effect, shall not have been engaged in the
4 practice of architecture in this state under the title of architect,
5 shall, before being entitled to be known and designated as an archi-
6 tect, secure from such board a certificate of qualifications to prac-
7 tice under the title of architect, as provided by this act.

Sec. 15. Any person having a certificate pursuant to the re-
2 quirements of this act may be styled or known as an architect
3 or registered architect.

Sec. 16. No person presumed to have the right to secure
2 such certificate, because of his or her use of the title architect prior
3 to the time this act goes into effect, shall assume any title indi-
4 cating that he or she is an architect, or any words, letters or fig-
5 ures to indicate that the person using them is an architect, unless
6 he or she shall have qualified and obtained a certificate of registra-
7 tion as an architect, or unless he or she shall have filed an affidavit
8 with said board establishing the fact that he or she was in prac-
9 tice as an architect in this state for five years previous to the pas-
10 sage of this act, and has a legal right to practice.

Sec. 17. Nothing contained in this act shall prevent drafts-
2 men, students, clerks-of-works, superintendents and other em-
3 ployees of those lawfully practicing as registered architects under
4 the provisions of this act, from acting under the instructions, con-
5 trol or supervision of their employers, or to prevent the employ-
6 ment of superintendents or the construction, enlargement or alter-
7 ation of buildings or any appurtenance thereto, or prevent such
8 superintendents from acting under the immediate personal super-
9 vision of the registered architect by whom the plans and specifi-
10 cations of any such building, enlargement or alteration were pre-
11 pared. Nor shall anything contained in this act prevent engi-
12 neers, mechanics, builders or any other persons from making plans
13 and specifications or supervising the erection, enlargement or
14 alteration of buildings, or any appurtenance thereto for other
15 persons, firms or corporations, or for themselves, *provided* that
16 the plans and specifications for such construction are signed by the
17 authors thereof with their true appellation of his or her actual
18 occupation in life, such as "engineer" or "mechanic" or "builder",
19 etc., without the use in any form of the word or title "architect"
20 or "architects".

Sec. 18. Any properly qualified person who shall have been
2 lawfully engaged in the practice of architecture in this state at

3 the time this act takes effect, may be granted a certificate of reg-
4 istration without examination by paying to the board the fee for
5 a certificate of registration as prescribed in section twenty-four
6 of this act, on condition that the applicant satisfies the board of
7 examiners that he is qualified to practice architecture.

Sec. 19. Any citizen of the United States or any person who
2 has declared his or her intention of becoming such citizen, being
3 at least twenty-one years of age and of good moral character, may
4 apply for a certificate of registration or for such examination as
5 shall be requisite for such certificate under this act; but before
6 receiving such certificate this applicant shall submit satisfactory
7 evidence of having completed the course in a high school or the
8 equivalent thereof, and of having subsequently thereto completed
9 such course in mathematics, history and language as may be pre-
10 scribed by the board of examiners and registration of architects.
11 The examination for the above academic requirements shall be
12 held by the board. In lieu of such examination the board may ac-
13 cept satisfactory diplomas or certificates, from institutions ap-
14 proved by the board, covering the course or subject-matter pre-
15 scribed for examination.

Sec. 20. Upon complying with the above requirements, the
2 applicant shall satisfactorily pass an examination in such tech-
3 nical and professional subjects as shall be prescribed by the board
4 of examiners and registration of architects. The board shall in
5 lieu of examination, accept satisfactory evidence of any one of
6 the qualifications set forth under sub-divisions (a) and (b) of
7 this section.

8 (a) A diploma of graduation or satisfactory certificate from
9 an architectural college or school that he or she has completed
10 a technical course approved by the board, together with and sub-
11 sequent thereto at least three years satisfactory experience in
12 the office of any reputable architect or architects.

13 The board may require applicants under this subdivision to
14 furnish satisfactory evidence of knowledge of professional prac-
15 tice.

16 (b) Registration or certification as an architect in another
17 state or county, where the qualifications prescribed at the time
18 of such registration or certification were equal to those prescribed
19 in this state at date of application.

Sec. 21. An architect who has lawfully practiced architecture 2 for a period of more than ten years outside of this state shall except 3 as otherwise provided in sub-division (b) of section twenty, be 4 required to take only a practical examination, the nature of which 5 shall be prescribed by the board of examiners and registration of 6 architects.

Sec. 22. The fee to be paid to the board by an applicant for 2 an examination to determine his fitness to receive a certificate 3 of registration as a registered architect shall be twenty five dol- 4 lars. .

5 (a) The fee to be paid to the board by an applicant for a certi- 6 ficate of registration as a registered architect shall be fifteen dol- 7 lars.

8 (b) The fee to be paid to the board for the restoration of an 9 expired certificate of registration shall be fifteen dollars.

10 (c) The fee to be paid to the board upon renewal of a certifi- 11 cate of registration shall be ten dollars.

12 (d) The fee to be paid to the board by an applicant for a 13 certificate of registration, who is an architect registered or licensed 14 under the laws of another state or territory of the United States, 15 or of a foreign country or province under subdivision (b) of sec- 16 tion twenty or under section twenty-one of this act, shall be fifty 17 dollars.

Sec. 23. All examination papers and other evidences of quali- 2 fication submitted by each applicant shall be filed with the board 3 of examiners and registration of architects, and said board shall 4 keep a record, open to public inspection, at all reasonable times, 5 of its proceedings relating to the issuance, refusal, renewal, sus- 6 pension and revocation of certificates of registration.

7 This record shall also contain the names, known place of busi- 8 ness and residence, and the date and number of the certificate of 9 registration of every registered architect entitled to practice his 10 profession in the state of West Virginia.

11 Every person granted such certificate shall have the same re- 12 corded with the county clerk of the county in which his principal 13 office for the practice of architecture is located.

Sec. 24. Every registered architect in this state who desires 2 to continue the practice of his profession shall, annually during the 3 month of July, renew his certificate of registration, and pay to the

4 board the renewal fee required by section twenty-two under sub-
5 division (c).

6 A person who fails to renew his or her certificate of registra-
7 tion during the month of July in each year may not, thereafter,
8 renew his certificate except upon payment of the fee required by
9 section twenty-two under subdivision (b).

10 Every certificate shall expire on the thirtieth day of June fol-
11 lowing its issuance.

Sec. 25. The board of examiners and registration of architects
2 may revoke any certificate after thirty days notice with grant of
3 hearing to the holder thereof, if proof satisfactory to the board
4 be presented in the following cases:

5 (a) In case it is shown that the certificate was obtained
6 through fraud or misrepresentation.

7 (b) In case the holder of the certificate has been found guilty
8 by such board or by a court of justice of any fraud or deceit in his
9 professional practice, or has been convicted of a felony by a court
10 of justice.

11 (c) In case the holder of the certificate has been found guilty
12 by such board of gross incompetency or of recklessness in plan-
13 ning of buildings.

14 (d) In case it is proved to the satisfaction of such board that
15 the holder of the certificate is a habitual drunkard, or is habitually
16 addicted to the use of morphine, opium, cocaine or other drug
17 having a similar effect.

Sec. 26. Proceedings for the annulment of registration (that is
2 the revocation of a certificate) shall be begun by filing written
3 charges against the accused with the board of examiners and
4 registration of architects. A time and place for the hearing of the
5 charges shall be fixed by the board. Where personal service or
6 service through a counsel cannot be effected, service may be made
7 by publication. At the hearing the accused shall have the right
8 to be represented by counsel, to introduce evidence and to examine
9 and cross-examine witnesses. The board shall make a written
10 report of its findings which report shall be filed with the secre-
11 tary of state of the state of West Virginia.

Sec. 27. Every person who is lawfully making use of the title
2 of architect in this state before the going into effect of this act,
3 shall, within six months after this act becomes effective, record
4 his name with proof of his use of such title with the board of ex-

5 aminers and registration of architects. Such recording shall not
 6 be interpreted as evidence of competency or ability unless appli-
 7 cant applies for and is granted a certificate of registration.
 8 Failure to record within such period the prior use of such title
 9 shall bar the said person from thereafter claiming registration
 10 under the provisions of section eighteen of this act.

Sec. 28. On and after this act becomes effective the use of
 2 the title architect or registered architect, or the use of any other
 3 word or any letters or figures indicated or intended to imply that
 4 the person using the same is an architect or registered architect,
 5 without compliance with the provisions of this act, or the mak-
 6 ing of any wilfully false oath or affirmation in any matter or pro-
 7 ceeding where an oath or affirmation is required by this act, shall
 8 be deemed a misdemeanor punishable with a fine of not more than
 9 two hundred dollars, or imprisonment for not more than one
 10 year, or both.

Sec. 29. All acts or parts of acts heretofore passed which are
 2 in conflict with the provisions of this act are hereby repealed.

House Bill No. 92

(House Bill No. 92—Mr. Midelburg.)

AN ACT to amend and re-enact sections one and two of chapter
 seventy-eight of the acts of the legislature of West Virginia of
 one thousand nine hundred and nine, and add thereto
 sections three and four, being section three-a of chapter seventy-
 four of Barnes' code of West Virginia, relative to the sale in
 bulk of a part or the whole of a stock of goods, wares, mer-
 chandise and fixtures, or goods, wares and merchandise, or fix-
 tures, not in the ordinary course of business; providing certain
 requirements therefor; and imposing certain duties upon the
 seller and purchaser.

Be it enacted by the Legislature of West Virginia:

That sections one and two of chapter seventy-eight of the acts
 of the legislature of West Virginia of one thousand nine hundred and
 nine be amended and re-enacted so as to read as follows, and add there-
 to sections three and four:

Section 1. The sale in bulk, of any part, or the whole, of a stock of goods, wares, merchandise and fixtures, pertaining to the conducting of said business, otherwise than in the ordinary course of trade and in the regular prosecution of the business of the seller, shall be fraudulent and void as against the creditors of the seller, unless the seller and purchaser, shall, at least fifteen days before the sale, make a full detailed inventory, showing the quantity, and so far as possible with the exercise of reasonable diligence, the cost price to the seller of each article to be included in the sale and the price to be paid therefor; and unless the purchaser demand and receive from the seller, a written list of the names and addresses of the creditors of the seller, with the amount of indebtedness due or owing to each, and certified by the seller under oath, to be a full, accurate and complete list of his creditors, and of his indebtedness; and unless the purchaser shall, at least fifteen days before taking possession of such goods, wares, merchandise and fixtures, or goods, wares and merchandise, or fixtures, or paying therefor, notify personally or by registered mail every creditor whose name and address is stated in said list, or of which he has knowledge, of the proposed sale and of the price, terms and conditions thereof. If said seller shall fail to make such inventory of such goods, wares, merchandise and fixtures, or goods, wares and merchandise, or fixtures, or if such inventory shall fail to state the true value of said goods as above required, or if said seller shall fail to make such true schedule of creditors as above required, and the purchaser shall have knowledge of that fact, or in event the seller shall assert there are no debts against him, if the purchaser shall fail to require the affidavit as above provided, or if the seller and the purchaser shall fail to give each of said creditors named in said schedule the notice above required in the manner above provided, or if such notice shall not correctly state the amount of such goods, wares, merchandise and fixtures, or goods, wares and merchandise, or fixtures, proposed to be sold, and the consideration to be paid therefor, and the time and manner of making the same, then and in either of such events such sale shall *prima facie* be presumed to be fraudulent and void as against the creditors of such seller, and the goods, wares, merchandise and fixtures, or goods, wares and merchandise, or fixtures, in the hands of the purchaser, or any part thereof, if it shall be found in his hands, shall be liable

41 to such creditors; and in event the same, or any part thereof, shall
 42 be withdrawn or disposed of by said purchaser, then the purchaser
 43 himself personally shall also be liable to said creditors of such
 44 seller, in any action at law, to the extent of the value of the goods,
 45 wares, merchandise and fixtures so received by him and thus with-
 46 drawn or disposed of.

Sec. 2. Sellers and purchasers under this act shall include cor-
 2 porations, associations, co-partnerships and individuals, but noth-
 3 ing contained in this act shall apply to sales by executors, admin-
 4 istrators, receivers, assignees under a voluntary assignment for
 5 the benefit of creditors, trustees in bankruptcy, or by any public
 6 officer under judicial process.

Sec. 3. The notice to creditors of the seller, as provided in sec-
 2 tion one of this act, shall be sufficient if in form or effect as fol-
 3 lows:

4 Notice to the creditors ofas
 5 provided by the bulk sales law of West Virginia, as amended and
 6 enacted by the acts of the legislature of one thousand nine hundred
 7 and twenty-one.

8 To

9 Address

10 You are hereby notified that the undersigned
 11 has contracted to buy in bulk (the whole) or (the part thereof as
 12 hereinafter described) of the stock of goods, wares and merchan-
 13 dise (and fixtures) of doing business
 14 under the name of, at.....,
 15..... county, West Virginia, otherwise than in the
 16 ordinary course of trade and in the regular prosecution of the
 17 business of the seller, the same being set forth in full in the de-
 18 tailed inventory made by the seller and purchaser, a copy thereof
 19 being now in the possession of the seller and purchaser.

20 The written list of the names and addresses of the creditors of
 21 the seller furnished the purchaser, and under oath of the seller,
 22 shows you to be a creditor of the seller in the amount of \$.....

23 The interest in the business of the seller proposed to be sold to
 24 the purchaser is

25 The price, terms and conditions of the said proposed sale are as
 26 follows:

27 Price \$..... Terms

28 Conditions

29 The said proposed sale will be consummated and possession of
 30 the above mentioned property will be taken by the undersigned
 31 purchaser on theday of,
 32
 33 Purchaser.

House Bill No. 156

(Committee Substitute for House Bill No. 156.)

(By the Committee on Taxation and Finance.)

AN ACT to amend and re-enact sections one, thirty-five, thirty-nine and sixty-four of chapter thirty-two of Barnes' code of West Virginia of one thousand nine hundred and eighteen, as amended and re-enacted by chapter one hundred and two of the acts of one thousand nine hundred and nineteen, and section forty of chapter one hundred and two of the acts of one thousand nine hundred and nineteen, and sections ninety-five, ninety-six, ninety-seven and one hundred of chapter thirty-two of Barnes' code of one thousand nine hundred and eighteen, and sections one hundred and five and one hundred and twenty of chapter thirty-two of the code of one thousand nine hundred and eighteen, as amended by chapter one hundred and two of the acts of one thousand nine hundred and nineteen, and section one hundred and twenty-a of chapter one hundred and two of the acts of one thousand nine hundred and nineteen, and adding to chapter thirty-two of the code, section forty-two-b, relating to licenses and license taxes.

Be it enacted by the Legislature of West Virginia:

That sections one, thirty-five, thirty-nine and sixty-four of chapter thirty-two of Barnes' code of West Virginia of one thousand nine hundred and eighteen, as amended and re-enacted by chapter one hundred and two of the acts of one thousand nine hundred and nineteen, and section forty of chapter one hundred and two of the acts of one thousand nine hundred and nineteen, and sections ninety-five, ninety-six, ninety-seven and one hundred of chapter thirty-two of Barnes' code of one thousand nine hundred and eighteen, and sections one hundred and five, one hundred and twenty of chapter thirty-two of the code of one thousand nine hundred and eighteen, as amended by chapter one hundred and two of the acts of one thousand nine hundred and nineteen, and section one hundred and twenty-a of chapter one hun-

dred and two of the acts of one thousand nine hundred and nineteen, be amended and re-enacted, and that sections thirty-five-a, thirty-five-b and forty-two-b be added thereto to read as follows:

Section 1. No person without a state license therefor, shall

- 2 (a) Keep a hotel, eating house, or restaurant; or
- 3 (b) keep for public use or resort, a bowling alley, pool table,
- 4 billiard table, bagatelle table, or any table of like kind; or
- 5 (c) sell at wholesale or retail patent or proprietary medicines;
- 5-a in incorporated cities and towns; or
- 6 (d) exhibit any circus, menagerie, circus and menagerie com-
- 7 bined, theatrical performance, street or other carnival, or public
- 8 show, to which admission is obtained for money or reward, except
- 9 for the benefit or under the auspices of a volunteer fire depart-
- 10 ment; or
- 11 (e) run or opeate, for profit, a merry-go-round, or roller-
- 12 coaster, or scenic railway, or like device, or keep for public use
- 13 or resort, a shooting gallery, a skating rink; or run, or operate a
- 14 cane rack, doll-baby rack, knife rack, striking machine, jingle
- 15 board, punch board, artful dodger, candy wheel, or other scheme
- 16 or device by which merchandise or other things of value are dis-
- 17 posed of by game of chance, or like device, or human laundry de-
- 18 vice, or dip device; or
- 19 (f) act as a hawker or peddler; *provided*, that *bona fide* farmers
- 20 vending farm products shall not be required to have a license; or
- 21 (g) act as an auctioneer; or
- 22 (h) practice the business of real estate agent, stock broker, or
- 23 other broker, by buying or selling for others, stocks, securities, or
- 24 any other property for a commission or reward; or
- 25 (i) practice the business of money broker, buying or selling un-
- 26 dercurrent or depreciated money or funds; or exchanging one kind
- 27 of money or funds for another, for benefit or reward; or
- 28 (j) practice the business of pawn broker by lending money or
- 29 other things for profit, for or on account of personal property de-
- 30 posited with the lender in pledge; or
- 31 (k) sell, or barter, or offer, or expose, for sale or barter, any pat-
- 32 ent right; or
- 33 (l) sell, offer, or expose for sale to merchants trading stamps,
- 34 premium stamps, or certificates of like nature or character, or
- 35 undertake with merchants to redeem such stamps or certificates in
- 36 money or goods; or

37 (m) sell any sewing machines, pianos, organs, victrolas, phono-
38 graphs, talking machines, or similar musical instruments, or being
39 a traveling agent, canvasser, or salesman, sell or contract to sell
40 any books, maps, prints, pamphlets, and periodicals, except such
41 books, pamphlets and periodicals that be of a religious or ethical
42 nature, whether manufactured within or without the state; or

43 (n) sell, offer, or expose for sale, or solicit, or receive orders for
44 manufactured tobacco, snuff, cigars, cigarettes, or other prepara-
45 tions of tobacco, or cigarette paper or wrapper, at wholesale or re-
46 tail; or

47 (o) carry on business of junk dealer, or act as agent, solicitor,
48 canvasser or salesman, for any junk dealer; or

49 (p) sell pistols, revolvers, or weapons of like kind; or

50 (q) maintain or occupy any houseboat, or like structure or ves-
51 sel, upon or along the bed, banks or shores of any navigable
52 stream; or

53 (r) maintain any slot machine or other automatic device,
54 which, for the same profit or reward, in each case, and without
55 any violation of the law, furnishes music, or exhibits pictures,
56 or provides facilities for weighing, or supplies any merchandise or
57 other thing, or renders any service; but no slot machine or other
58 automatic device with respect to which, or its operation, service,
59 or supplies, there is any element of chance (being a gaming table,
60 within the meaning of section one, of chapter one hundred and
61 fifty-one of the code), shall be protected by any license; or

62 (s) being a corporation, heretofore or hereafter chartered under
63 the laws of this state, whether its principal place of business or
64 chief works be within or without the state, do, or attempt to do,
65 any business by virtue of its charter or certificate of incorpora-
66 tion; or

67 (t) being a corporation chartered or organized under the laws
68 of any other state or county, hold property or transact business in
69 this state; or being a corporation, hold more than ten thousand
70 acres of land in this state; or

71 (u) solicit, carry on or practice the business of a collection
72 agency, or association, whether it be a person, firm or corporation;
73 or

74 (v) keep, or maintain, a public park, admission to which is ob-
75 tained for money or reward; or

76 (w) carry on the business of a labor agency; or

77 (x) any one manufacturing, selling or distributing,
78 either at retail or wholesale, any and all prepara-
79 tions of every kind, character or nature, such as
80 are prepared, mixed and sold at a soda fountain,
81 and all such preparations as bevo, pablo, milo, moxie,
82 ginger ale, near-beer, coca cola, pop, grape juice and all other prep-
83 arations of like nature and character commonly known as soft
84 drinks; or

85 (y) keep or maintain for public use or resort, a taxi-cab stand
86 or any place of like character.

87 *Provided*, that nothing in this chapter contained, and no license
88 or payment under the provisions hereof shall be taken to legalize
89 any act which otherwise may be in violation of law, or exempt any
90 person from any penalty prescribed for such violation.

Sec. 35. Every certificate issued as aforesaid, if it be to
2 authorize the keeping of a hotel or tavern, eating house, or res-
3 taurant, or bowling alley, billiard table or bagatelle, or any table
4 of like kind, taxi-cab stand, or any place of like kind,
5 shall specify the house in which it is to be kept or
6 carried on; and to keep or carry on the same at a different place
7 shall be deemed a violation of this chapter. *Provided*, that where
8 such place is situated in an incorporated city or town, the council
9 or other governing body thereof shall have exclusive power and
10 right to grant such licenses and shall have all the rights and
11 powers herein granted to the county court. Other licenses shall be
12 deemed co-extensive with the county subject to such regulations
13 as may be prescribed by the state tax commissioner, but of no
14 effect beyond the limits of the county unless otherwise herein pro-
15 vided; that where such place is situated in an incorporated city or
16 town the council or other governing body thereof shall have ex-
17 clusive power and right to grant such license and shall have all
18 the rights and powers herein granted to the county court.

Sec. 35-a. Every person desiring a license for the purpose of keep-
2 ing, for public use or resort, a bowling alley, pool table, billiard ta-
3 ble, bagatelle table or any table of like kind, shall apply in writing
4 to the county court, and such writing shall state the house and
5 fully describe the place for which such license is desired; and
6 the court may, at its discretion, grant or refuse such application.
7 The state tax commissioner shall prepare proper forms for the
8 application for such license, and all applicants shall use forms

9 substantially the same.

10 The licensee, his servants, agents and employees
11 shall not permit any person under the age of
12 eighteen years to play at any of the games re-
13 ferred to, and shall not permit any such person
14 under the age of eighteen years to remain or loiter, whether
15 playing at such games or not, in the room where such games
16 are played, and such licensee of such bowling alley,
17 pool table, billiard table, bagatelle table or any table of
18 like kind, his servants, agents or employees shall not in
19 any way, shape or form permit any one to bet anything
20 of value upon any such game. Such licensee, his servants, agents
21 or employees shall not permit any one to bring any intoxicating
22 liquors of any kind into such house in which such business is
23 carried on. Any licensee, his servants, agents or employees who
24 violates any of the provisions of this section shall be guilty of
25 a misdemeanor, and upon conviction thereof shall be fined by any
26 court; including justices of the peace having jurisdiction, and
27 police justices, not less than twenty-five dollars nor more than
28 two hundred dollars, and may be imprisoned not to exceed nine-
29 ty days, or both, at the discretion of the court. When any such
30 licensee, his servant, agent or employee is convicted under the
31 provisions of this section of any offense set out herein, in ad-
32 dition to all other punishments such licensee shall forfeit his
33 license, and in addition thereto no license shall be granted by
34 any county court for any of the purposes set out in this section for a
35 period of one year from and after the day of such conviction, in
36 the particular room for which license was granted.

Sec. 35-b. Every person desiring a license for the purpose of
2 keeping or maintaining a taxi-cab stand or any place
3 of like kind or character, for public use or resort, shall apply in
4 writing to the county court, and such writing shall state the
5 house and fully describe the place for which such license is de-
6 sired; and the court shall grant such license unless good cause
7 shall be shown it to the contrary. In the recess of the court, the
8 clerk of the county court can in the same manner grant the above
9 license. The state tax commissioner shall prepare proper forms
10 needed to obtain such license.

11 The licensee, his servants, agents and employees shall not per-
12 mit any unnecessary noise in such place or any disorderly conduct

13 and shall not bring or permit anyone else to bring any intoxicat-
14 ing liquors into such place nor permit anyone to store or keep
15 intoxicating liquors therein. Any licensee, his servants, agents
16 and employees who violates any of the provisions of this section
17 shall be guilty of a misdemeanor and upon conviction thereof
18 shall be fined by any court, having jurisdiction, including justices
19 and police justices not less than five nor more than fifty dollars
20 and may be imprisoned not to exceed thirty days, or both, at the
21 discretion of the court.

22 When any such licensee, his servants, agent or employee is con-
23 victed under the provisions of this section of any offense set out
24 herein, in addition to all other punishments such court may add
25 the further punishment that the licensee shall forfeit his license
26 and if any such person shall be convicted a third time for any such
27 offense, then the court shall, as a part of the punishment, forfeit
28 such license, and in addition thereto no license shall be granted
29 for any of the purposes set out in this section for a period of
30 sixty days from and after the day of such conviction for the place
31 for which such license was granted.

32 *Provided*, that where such place is situated in an incorporated
33 city or town the council or other governing body thereof shall
34 have exclusive power and right to grant such licenses and shall
35 have all the rights and powers herein granted to the county court.

Sec. 39. The license tax for all annual licenses named in
2 section one, shall begin with the first day of July, of each year, and
3 end with the thirtieth day of the following June. Every state
4 license for any other purpose named in section one (except as
5 herein otherwise provided), shall expire on the thirtieth day of
6 June. If granted for a less period than a year, the state tax
7 thereon shall be computed from the annual tax in proportion to
8 such time as the license has to run, unless specifically otherwise
9 provided; and *provided, further*, that no license for any purpose
10 or any length of time shall be issued for less than two dollars.

Sec. 40. The state license to sell patent rights, or act as
2 hawker or peddler; or run or operate for profit, a merry-go-round,
3 a cane rack, doll baby rack, knife rack, striking machine, jingle
4 board, punch board, artful dodger, candy wheel or other scheme
5 or device by which merchandise or other things of value is dis-
6 posed of by game of chance, or like device; or human laundry
7 device, or dip device, or roller coaster, or scenic railway, or like

8 device, or conduct a shooting gallery, or keep for public use or re-
9 sort a bowling alley, pool or billiard table, or any other table of
10 like nature at a public watering place or public park in this state;
11 or to keep or maintain a public park to which admission is ob-
12 tained for money or reward, or conduct a theatrical performance
13 on a showboat plying the navigable streams of this state, shall
14 be either for one year, three months, or six months from the com-
15 mencement thereof. If for three months, the state tax thereon
16 shall be one-third, and if for six months, three-fifths of the
17 annual tax.

Sec. 42-b. The state tax commissioner, or his agents, shall
2 have the power and authority to administer oaths and examine
3 witnesses in any matter, or investigation, in connection with the
4 collection of license taxes, or the enforcement of any of the pro-
5 visions of the license laws of this state.

Sec. 64. On every license to keep or maintain a hotel or tavern,
2 where rooms are kept or maintained for transient guests, the
3 charge for which is by the day or night, the annual license tax
4 shall be ten dollars. On every license to keep or maintain a lunch
5 wagon, five dollars; and on every license to keep or maintain a
6 restaurant or other eating place not operated in connection with a
7 hotel, ten dollars.

Sec. 95. On every license to practice the business of stock
2 broker, or other broker (other than that of a pawn broker) by
3 buying or selling for other stocks, securities, or property, for com-
4 mission or reward, one hundred dollars.

5 On every license to practice the business of real estate agent
6 or real estate broker, fifty dollars, in addition to all other taxes
7 prescribed by this chapter or by any other law. Such license shall
8 be co-extensive with the state. The term real estate agent shall in-
9 clude any person, partnership or corporation, that, for a commis-
10 sion, compensation or reward, is engaged in the selling of or who
11 negotiates the sale of real estate belonging to another or others, or
12 obtains or places loans for others on real estate, or advertises for
13 sale or solicits the sale of real estate for others on real estate, or ad-
14 vertises the sale or solicits the sale of real estate belonging to an-
15 other or others, or collects rent and attends to the letting and
16 sale of houses and land. If any person shall carry on in this state
17 what is commonly known as a bucket shop, or act as agent for any
18 person, firm or corporation carrying on such business; or engaged

19 in transactions for the purchase or sale for others of grain,
20 provisions, stocks, securities, merchandise or other property where-
21 in the parties thereto or the broker intend that such transaction
22 shall be settled according to the public market quotations on any
23 board of trade or exchange, or intend that such transaction may
24 be deemed terminated when such public market quotations shall
25 reach a certain figure, or intend that such property shall be re-
26 sold before or at the time fixed in such transaction for the delivery
27 of such property and that the difference between the contract price
28 and the market price thereof shall be paid or received without
29 the prior receipt or delivery of such property under the former
30 sale, he shall be guilty of a felony, and upon conviction thereof
31 shall be confined in the state penitentiary not less than two nor
32 more than five years.

Sec. 100. On every license to carry on the business of a junk
2 dealer, twenty-five dollars; on every agent, solicitor, canvasser or
3 salesman, appointed by any junk dealer for the purpose of buying
4 junk, ten dollars. A junk dealer agent's license shall be issued
5 only in the county where the junk dealer's place of business is
6 located; and, *provided*, that every dealer shall certify to the clerk
7 of the county court the name or names of the agents for whom
8 he desires a license certificate, and that he shall give to each agent
9 so employed by him a certificate of authority, which said agent
10 at all times shall keep with his license, and no such junk dealer
11 agent's license shall be valid and effective without such certificate
12 of authority.

Sec. 105. On every license to keep or maintain a taxi-
2 cab stand or any place of like kind or character the sum of ten
3 dollars. On every license to operate a roller-coaster, a merry-go-
4 round, scenic railway, or like device, for one week, ten dollars;
5 for three months, thirty dollars; for six months, fifty dollars; and
6 for one year, one hundred dollars. On every license to run or
7 operate a doll baby rack, or cane rack, or knife rack, striking
8 machine, jingle board, punch board, artful dodger, candy wheel,
9 or other scheme or device by which merchandise or other
10 thing of value is disposed of by game of chance, or like
11 device, or human laundry device, or dip device, the tax shall be
12 five dollars for one week; twenty dollars for four months; thirty
13 dollars for six months, and fifty dollars for one year; *provided*,
14 *however*, that licenses under this section may be issued for the

15 periods provided in section forty of this chapter and the license tax
16 charged as provided therein.

Sec. 120. The state tax on every license to exhibit a circus or
2 menagerie, or a circus and menagerie combined or wild west show,
3 in cities or towns of a population of thirty thousand or more,
4 seventy-five dollars for each exhibition; in cities or towns of a
5 population of ten thousand and up to thirty thousand, fifty dollars
6 for each exhibition; in cities or towns of a population of five
7 thousand and up to ten thousand, thirty dollars for each exhibi-
8 tion; in cities or towns of a population of less than five thousand,
9 ten dollars for each exhibition.

10 The state tax on every license to exhibit a trained animal or
11 dog and pony show in cities or towns of a population of thirty
12 thousand or more, thirty dollars for each exhibition; in cities or
13 towns of a population of ten thousand and up to thirty thousand,
14 twenty dollars for each exhibition; in cities or towns of a popu-
15 lation of less than ten thousand, ten dollars for each exhibition.

16 The state tax on every license to exhibit a side show in the
17 vicinity of any other show in cities or towns of a population of
18 ten thousand or more, ten dollars; in cities or towns of a popula-
19 tion of less than ten thousand, five dollars.

20 The state tax on every license to exhibit a street or other carni-
21 val, or any show connected with a county or other fair, five dol-
22 lars a week for each separate entertainment or exhibition for
23 which a fee is charged. The state tax on cane rack, doll baby
24 rack, knife rack, striking machine, jingle board, punch board,
25 artful dodger, candy-wheel, or other scheme or device by which
26 merchandise or other things of value are disposed of by game
27 of chance or like device, when such device is located in the vi-
28 cinity of a street fair or carnival, ten dollars a day.

29 The state tax on every license to exhibit any other show in cities
30 or towns with a population of ten thousand or more, ten dollars,
31 and in cities or towns of less than ten thousand, five dollars.

32 Every show, exhibition or performance, such as is described in
33 the next preceding paragraph, whether under the same canvas or
34 not, shall be construed to require a separate license therefor,
35 whether exhibited for compensation or not; and upon any such
36 show, exhibition or performance being concluded, so that an addi-
37 tional fee for admission be charged in lieu of a check authorizing
38 the holder to re-enter without charge, it shall be construed to re-

39 quire an additional license for any further or other show, exhi-
40 bition, or performance.

Sec. 120-a. The state tax on every wholesaler, distributor, or
2 manufacturer engaged in the manufacturing, preparing, mixing,
3 compounding, selling or distributing of any and all preparations
4 of every kind, character and nature commonly called and known
5 as soft drinks, such as are prepared, mixed and sold at what is
6 commonly called a soda fountain, and all such preparations as
7 bevo, pablo, milo, moxie, ginger ale, near beer, coca cola, grape
8 juice, pop, and all other preparations, mixtures and compounds of
9 every kind and character, commonly called and known as soft
10 drinks, shall be on such manufacturer, wholesaler, or distributor,
11 the sum of one hundred dollars annually, and on each retailer
12 five dollars annually.

13 All acts or parts of acts coming within the purview of this act,
14 or inconsistent therewith, are hereby repealed.

House Bill No. 351

(House Bill No. 351—Mr. Veach.)

AN ACT providing for the laying of a tax in cities and towns for the
creation of a municipal band fund and providing for an election
authorizing said levy.

Be it enacted by the Legislature of West Virginia:

Section. 1. Cities and towns shall levy a tax of not more than
2 one-half of one cent per annum on every one hundred dollars valua-
3 tion of the taxable property in such city or town, according to the
4 last assessment thereof, as may be authorized by the voters as
5 hereinafter provided, for a fund to be used in the maintenance of
6 a municipal band to give free public concerts. The funds received
7 from such levy shall be known as the municipal band fund and no
8 moneys shall be appropriated or used out of such fund until such
9 city or town shall have entered into a written contract with re-
10 sponsibde band directors or bandsmen for the furnishing of music
11 in public places under such regulations as shall be provided in such
12 contract, and no voluntary donation or contribution shall be made
13 out of said fund except under the terms of such contract.

Sec. 2. The provisions of this act shall not apply until a major-
2 ity of the voters voting thereon of such city or town shall have

3 voted in favor of the same at a regular municipal election; and
4 said provisions of this act shall then remain in force until the
5 majority of the voters voting thereon at a subsequent or regular
6 municipal election shall have voted against same. When a petition
7 signed by at least ten per cent of the qualified voters of said city
8 or town, as shown by the last election of mayor of said city or town
9 has been presented to the council or governing body, the following
10 question shall be submitted to the voters: "Shall there be levied
11 a tax of mills for a municipal band fund?" That said
12 petition shall be filed, if for a regular municipal election at least
13 ten days before said election. And a petition, signed by at least
14 ten per cent of the qualified voters of said city or town, as shown
15 by the last election of mayor of said city or town, may be filed ten
16 days before any subsequent regular municipal election petitioning
17 the council or governing body of said city or town to discontinue
18 said levy and thereupon the council or governing body shall sub-
19 mit at such next municipal election the above question, and if
20 the same carries, the levy shall be continued, but if a majority of
21 the voters voting thereon shall vote against the same, said levy
22 shall be discontinued.

Sec. 3. This act, being deemed of immediate importance, shall
2 take effect from and after its passage and approval by the gover-
3 nor of West Virginia.

House Bill No. 522

(Committee Substitute for House Bill No. 522.)

(By the Committee on Taxation and Finance.)

AN ACT authorizing the issuance and sale of not exceeding fifteen mil-
lion dollars of bonds of the state of West Virginia to raise money
for road construction purposes under and by virtue of the "Good
election held November, one thousand nine hundred and twenty;
and to provide for the levy and collection of an annual state tax
and other revenue sufficient to pay semi-annually the interest on
said bonds and the principal thereof within twenty-five years.

Roads Amendment" to the constitution adopted at the general
Be it enacted by the Legislature of West Virginia:

Section 1. That bonds of the state of West Virginia of the
2 par value of fifteen million dollars are hereby author-

3 ized to be issued and sold for the purpose of raising funds to build,
4 construct and maintain a system of state roads and highways in
5 the state of West Virginia, as authorized by the "Good Roads
6 Amendment" to the constitution of said state adopted at the
7 general election held in November, one thousand nine hundred
8 and twenty.

Sec. 2. Said bonds shall be dated July first, one thousand
2 nine hundred and twenty-one, and shall become due and payable
3 serially in equal amounts beginning July first, one thousand nine
4 hundred and twenty-seven and ending July first, one thousand nine
5 hundred and forty-six, and may be coupon or registered and in such
6 denominations as the governor may determine.

7 The auditor and treasurer are authorized to arrange for the
8 transfer of registered bonds and for each such transfer a fee of
9 fifty cents shall be charged by and paid to the state of
10 West Virginia to the credit of the "State Road Sinking Fund."
11 Bonds taken in exchange shall be cancelled by the auditor and
12 treasurer and be carefully preserved by the treasurer.

13 All of such bonds shall be payable at the office of the treasurer
14 of the state of West Virginia, or, at the option of the holder of
15 said bonds, at some designated bank in the city of New York.
16 to be designated by the governor. Said bonds shall be interest
17 bearing at the rate of not exceeding five per centum per annum and
18 the said interest shall be payable semi-annually on the first day
19 of January and July of each year to bearer at the office of the treas-
20 urer of the state of West Virginia at the capitol of said state,
21 or, at the option of the holder, at some designated bank in New
22 York City, to be designated by the governor upon presentation and
23 surrender of the interest coupons representing interest then due,
24 in the case of the coupon bonds. In the case of registered bonds,
25 the treasurer of the state of West Virginia shall issue his check
26 for the payment of interest on the first day of January and July
27 of each year for the amount of registered bonds outstanding as
28 shown by the records of his office.

29 Both the principal and interest of said bonds shall be payable
30 in gold coin of the United States of the present standard of weight
31 and fineness. All said bonds shall be exempt from taxation by
32 the state of West Virginia, or by any county, district, or munici-
33 pality thereof, which fact shall appear on the face of the bonds
34 as part of the contract with the holder thereof.

Sec. 3. Said bonds and coupons shall be engraved and the
 2 bonds shall be signed, on behalf of the state of West Virginia, by
 3 the treasurer thereof, under the great seal of the state, and counter-
 4 signed by the auditor, and shall be in the following form or to
 5 the following effect, as near as may be, namely:

6 COUPON GOLD BOND
 7 (or Registered Gold Bond,
 8 as the case may be)
 9 of the
 10 State of West Virginia.

11 \$. Number.

12 The state of West Virginia, under and by virtue of authority of
 13 an act of its legislature passed at the regular session of one thous-
 14 and nine hundred and twenty-one, on the day of
 15, one thousand nine hundred and twenty-one
 16 and approved by the governor on the day of
 17 one thousand nine hundred and twenty-one, reference to which is
 18 hereby made as fully and at length as if set forth herein, acknowl-
 19 edges itself to be indebted to, and hereby promises to pay to the
 20 bearer hereof (in the case of a coupon bond) or to,
 21 or assigns, (the owner of record, in the case of registered bonds)
 22 year after the date of this bond, to-wit on the
 23 day of, 19 . . . , in gold coin of the United
 24 States of America of the present standard of weight and fineness,
 25 at the office of the treasurer of the state of West Virginia, at the
 26 capitol of said state, or at the option of the holder at bank in
 27 the city of New York, the sum of dollars, with interest
 28 thereon at per centum per annum from date, payable semi-
 29 annually in gold coin of the United States of America, at the
 30 treasurer's office or bank aforesaid, on the first day of January
 31 and first day of July of each year, (and in the case of coupon
 32 bonds) according to the tenor of the annexed coupons, bearing
 33 the engraved fac-simile signature of the treasurer of the state of
 34 West Virginia.

34 To secure the payment of this bond, principal sum and inter-
 35 est, when other funds and revenues sufficient are not available for
 36 that purpose, it is agreed that the board of public works of the
 37 state of West Virginia shall annually cause to be levied and col-
 38 lected an annual state tax on all property in the state, until said
 39 bond is fully paid; sufficient to pay the annual interest on said

40 bonds and the principal sum thereof within the time this bond
41 becomes due and payable.

42 This bond is hereby made exempt from any taxation by the
43 state of West Virginia, or by any county, district or municipal
44 corporation thereof.

45 In testimony whereof, witness the signature of.....
46, treasurer of the state of West Virginia, and the counter
47 signature of....., auditor of said state hereto affixed
48 according to law, dated the.....day of.....one thou-
49 sand nine hundred and....., and the seal of the state of West
50 Virginia.

51
52 (Seal) Treasurer of the State of West Virginia.

53 Countersigned:

54

55 Auditor of the state of West Virginia.

Sec. 4. The form or coupons shall be substantially as follows,

2 to-wit: State of West Virginia

3 Bond No..... Coupon No.....

4 On the first day of....., 19....., the state of West
5 Virginia will pay to bearer, in gold coin of the United States of
6 the present standard of weight and fineness, at the office of the
7 treasurer of the state, or at the option of the holder at.....
8bank in New York City, the sum of.....
9dollars, the same being the semi-annual interest on Bond
10 No....., series of one thousand nine hundred and twenty-
11-12

13 Treasurer of the State of West Virginia.

14 The signature of the treasurer to said coupons shall be by his
15 engraved fac-simile signature, and each coupon shall be impressed
16 on the back with its number in order of maturity from number
17 one consecutively. Said bonds and coupons may be signed by
18 the present treasurer and auditor, or by any of their respective
19 successors in office; but no change in such signatures shall be
20 necessary by reason of any change of said officers.

Sec. 5. All coupon and registered bonds issued under this act
2 shall be separately listed by the auditor of the state in books pro-
3 vided for the purpose, in each case giving the date, number, char-
4 acter and amount of obligations issued, and, in case of registered
5 bonds, the name of persons, firm, or corporation to whom issued.

Sec. 6. A fund is hereby created, designated as the state road sinking fund. Into this fund shall be paid all moneys received from the annual state tax levy on the taxable property in the state for state road sinking fund purposes, from any and all appropriations made by the state from other sources for the purposes of paying the interest on said bonds or paying off and retiring same, from fines, forfeitures and penalties, if any made applicable by law for the payment of said bonds or the interest thereon, from transfer fees as herein provided, and from any source whatsoever, which is made liable by law for the payment of the principal of said bonds or the interest thereon.

All such funds shall be kept by the treasurer in a separate account, under the designation aforesaid, and all money belonging to said fund shall be deposited in the state treasury to the credit thereof.

Said fund shall be applied by the treasurer of the state, first to the payment of the semi-annual interest on said bonds as it becomes due as herein provided. The remainder of said fund shall be turned over by the state treasurer to state sinking fund commission, whose duty it shall be to invest the same in the bonds of the government of the United States, the bonds of the state of West Virginia, or any political sub-division thereof; *provided, however*, that bonds so purchased by the said state sinking fund commission shall mature so as to provide sufficient money to pay off all bonds herein provided to be issued as they may become due; and said state road sinking fund shall be expended for the purpose of paying the interest and principal of the bonds hereby provided for, and for no other purpose, except that said fund may be invested until needed, as herein provided.

Sec. 7. In order to provide the revenues necessary for the payment of the principal and interest of said bonds, as hereinbefore provided, the board of public works is authorized, empowered and directed to lay annually a tax upon all real and personal property subject to taxation within this state, sufficient to pay the interest on said bonds accruing during the current year and one-twenty-fifth of the total issue (at par value) of said bonds, for such number of years, not exceeding twenty-five, as may be necessary to pay the interest thereon and to pay off the principal sum

10 of said bonds; and said taxes, when so collected, shall not be liable
11 for or applicable to any other purpose

12 *Provided, however,* if there be other funds in the state treasury,
13 or in the state road fund, in any fiscal year, not otherwise appro-
14 priated, or if other sources of revenue be hereafter provided by
15 law for the purpose, the board of public works is authorized, em-
16 powered and directed to set apart, in any year there be such funds,
17 or other sources of revenue provided for such purpose, a sum
18 sufficient to pay the interest on said bonds accruing during the
19 current year, and to pay off and retire the principal of said bonds,
20 or any part thereof, at maturity.

21 The authority hereby vested in the board of public works shall
22 be in addition to the authority now vested in it by present law.

Sec. 8. The governor shall sell all bonds herein mentioned
2 at such time or times as he may determine necessary to provide
3 funds for road construction purposes, as herein provided, upon
4 recommendation of the state road commission. All sales shall
5 be at not less than par and interest accrued since the last semi-
6 annual dividend period. All interest coupons becoming pay-
7 able prior to said sale date shall be cancelled by the treasurer and
8 rendered ineffective before the delivery of the bonds so sold. Reg-
9 istered bonds shall bear interest only from the date of delivery.

Sec. 9. The plates from which the bonds authorized by this
2 act are printed shall be the property of the state of West Virginia.

Sec. 10. All necessary expenses incurred in the execution of
2 this act shall be paid out of any money in the treasury of the
3 state of West Virginia, not otherwise appropriated, on warrants
4 of the auditor of the state drawn on the state treasurer.

Sec. 11. The state auditor shall be the custodian of all un-
2 sold bonds issued pursuant to the provisions of this act.

House Bill No. 265

(Committee Substitute for House Bill No. 266.)

(By the Committee on Game and Fish.)

AN ACT to amend and re-enact chapter sixty-two of the code of
West Virginia, of one thousand nine hundred and sixteen, as
last amended and re-enacted by chapter fifty-two of the acts of

the legislature of West Virginia, of one thousand nine hundred and nineteen, regular session, all relating to the protection and preservation of certain animals, birds and fishes, forests and streams.

Be it enacted by the legislature of West Virginia:

That chapter sixty-two of the code of West Virginia, of one thousand nine hundred and sixteen, as last amended and re-enacted by chapter fifty-two of the acts of the legislature of West Virginia, of 1916, be amended and re-enacted so as to read as follows:

Section 1. (a) The game and fish commission of West Virginia, to be composed of three competent citizens of this state who shall be appointed by the governor, no two of whom shall be residents of the same senatorial district, is hereby created. When this act takes effect, the governor shall appoint one member thereof for the term of three years from the first day of July one thousand nine hundred and twenty-one, one member thereof for the term of two years from said date, and one member thereof for the term of one year from said date, and thereafter the governor shall each year appoint a member for the full term of three years as the terms of such commissioners shall expire, except where appointment is made to fill a vacancy. A vacancy in said commission shall be filled by appointment by the governor for the unexpired term. All appointments so made shall be with the advice and consent of the senate, except where otherwise provided by law.

(b) The governor may remove any member for incompetency, neglect of duty, gross immorality or malfeasance in office.

(c) The commissioners shall receive no salary or other compensation for their services, but shall be allowed and paid their actual necessary expenses in traveling and other personal expenses incurred in the performance of their duties; *provided*, that in no case shall such total amount so allowed for traveling and other personal expenses exceed in any one year the sum of fifteen hundred dollars for all of said commissioners. No expense account shall be paid unless a statement of the items thereof together with the time of expenditure and the person or persons by whom expended shall be certified by at least two of the members of the commission to be a true statement of money ac-

31 tually expended, at the times designated, for traveling and other
32 personal expenses in the performance of duty as such commis-
33 sioners.

34 (d) The commission shall maintain an office at the capital
35 of the state and shall hold regular meetings at such office on the
36 first Thursdays of January, April, July and October, and may
37 hold special meetings at such times and places in said state as it
38 may deem necessary. Such special meetings may be called
39 either by the chairman or by any two members, by giving reason-
40 able notice thereof to each member.

41 (e) The commission shall have power and authority to ap-
42 point a chief game protector and additional other competent
43 men who shall be designated game protectors, each of whom
44 shall hold office at the pleasure of the commission, and the com-
45 mission may, at its discretion, with or without cause, summarily
46 remove any person appointed by it and fill such vacancy so cre-
47 ated by removal. The commission shall fix the salary to be paid
48 to the chief game protector and the compensation of said game
48-a protectors but the chief game protector shall not be
49 paid a yearly salary of more than the sum of three
50 thousand dollars, exclusive of his expenses. The com-
51 mission may rent an office adequate for its purposes, furnish
52 the same, secure necessary supplies for the keeping of its re-
53 cords and the conduct of its business, and may employ, with the
54 right of removal as aforesaid, one person to act as clerk at said
55 office, at a salary of not more than two thousand dollars a year,
56 and a stenographer at not more than fifteen hundred dollars
57 per year.

58 (f) The commission shall, in addition to the duties herein-
59 after specifically prescribed, have entire charge, control and
60 supervision of the conservation, protection, propagation and
61 distribution of the fish, frogs, wild animals, and the wild birds
62 and fowl of the state, the conduct, control, operation and
63 management of all state wild birds, wild fowl or wild game
64 farms, reserves and refuges, and fish hatcheries and reserves and
65 refuges, and all other fish, frog, wild game, wild bird and fowl
66 plants and places now or hereafter to be established in the state
67 for the propagation and protection of fish, frogs, wild game
68 and wild birds and fowl; supervise and direct the granting and
69 the cancellation or revocation of all game and fish, hunting or

70 other licenses, provided by this chapter to be granted, and the
71 payment, collection and expenditure of all moneys derived from
72 said licenses, and otherwise collected or appropriated for the
73 operation of the game and fish department; supervise and direct
74 and have charge of the enforcement of all laws enacted for the
75 propagation, preservation, conservation, protection and distri-
76 bution, or in relation to the pursuit, hunting, catching, capturing
77 and killing of the fish, frogs, the wild animals, the wild birds,
78 and the wild fowl of the state; and do and perform all acts and
79 things expressly provided or implied to be done by the commis-
80 sion under the provisions of this act or by law.

81 (g) The commission shall keep records of all its acts and
82 doings in relation to its duties and it shall preserve the same
83 at its office, and shall make a report to the governor not later
84 than the 10th day of December of each year, or oftener if re-
85 quired by the governor, of the conduct of its affairs during said
86 current year, including a statement of receipts and disburse-
87 ments and such recommendations as the commission may desire
88 to make in relation to the matters within its duties and pur-
89 poses. The commission shall choose yearly at the first meeting
90 held after the thirty-first day of May, a chairman who shall be
91 such for one year from the said thirty-first day of May of each
92 year, or until his successor shall be elected and qualified in his
93 stead.

93-a (h) The commission shall keep its records and books in the
94 manner to be prescribed by the public accounting department
95 of the state, and shall submit the same to said accounting de-
96 partment for inspection at such time as said accounting de-
97 partment may require.

98 (i) The commissioners shall each give bond in the sum of
99 two thousand dollars, and in case surety companies execute the
100 same the premiums therefor shall be paid out of the funds of the
101 commission, for the faithful performance and discharge of their
102 duties as commissioners, and the commissioners, chief game pro-
103 tector and the game protectors shall each give, sign and execute
104 a written oath of office in form to be prescribed by the attorney
105 general of this state before entering upon the performance of
106 their duties. The written oath of office may be administered to
107 the chief game protector and game protectors by any com-
108 missioner or any other person authorized by law to administer

109 oaths, and all said written obligations shall be returned to and
110 filed with the commission.

Sec. 2. (a) The chief game protector and the game protectors and all other officers of the state of West Virginia, while engaged in the enforcement of the provisions of this act, shall be under the supervision and direction of the commission. The chief game protector and the game protectors shall have full power and authority to execute and serve any warrant, notice or any process of law issued under this act or any law enacted relating to the game, the fish, the frogs, the wild birds and wild fowl, and the game animals and forests, issued by any justice of the peace or by any court having jurisdiction thereof, in the same manner and with the same power and authority and to and with the same legal effect as any constable or sheriff can serve or execute such warrant, notice or process; may arrest on sight, without a warrant or other court process, any person or persons detected by them in the violation of any of the provisions of this act or of any law of this state relating to the game, the fish, frogs, wild birds and fowl and the game animals and the forests; and said chief game protector and game protectors under the supervision and direction of said commission, shall do all things necessary to properly carry into effect the provisions of this act.

(b) The sheriffs, deputy sheriffs and constables in the several counties of the state shall be, within their respective jurisdiction, game protectors, and in like manner the police officers of any city shall be, within their jurisdiction, game protectors, and members of the department of public safety, hereinafter called state police, each vested within his respective jurisdiction, with all the powers and authority of game protectors, but no oath shall be required of said sheriffs, deputy sheriffs, constables, state police or police officers, and each shall, when making an arrest or executing other court process under the provisions of this chapter, make report of the same to the commission.

(c) The chief game protector and game protectors, including said sheriffs, deputy sheriffs, constables, state police and police officers, while engaged in the enforcement of any of the provisions of this act, shall have the power, in manner provided by law, to search and examine any boat, vehicle; automobile, conveyance, express or railroad cars, fish box, fish buckets or creel, game bag or game coat, or any other receptacle in which game

39 birds, game animals or fish or frogs could be packed, concealed
40 or conveyed, whenever they have reason to believe that they will
41 thereby secure or discover evidence of the violation of any pro-
42 vision of this act, and the said officers shall have, in manner pro-
43 vided by law, the same right to execute a search warrant as is
44 now conferred upon sheriffs in their respective counties.

45 (d) The authority and powers and duties of the chief game
46 protector and game protectors shall be state wide and after they
47 are appointed as such, each can obtain from the circuit court of
48 the county of his residence, a license to carry a pistol or revolver,
49 by giving bond in the sum of thirty-five hundred dollars, con-
50 ditioned as provided in section seven of chapter one hundred and
51 forty-eight of the code, and no notice or other application, ex-
52 cept the presentation of his commission as such game protector
53 shall be required of him before such license is granted.

54 (e) Any of the officers herein mentioned, whose duty it is to
55 enforce provisions of this act, shall have the same rights and
56 powers as sheriffs have in their respective counties to summon
57 aid in making arrests, seizures or executing any warrants, notices
58 or court process.

59 (f) The commission may cause complaints to be made and pro-
60 ceedings to be instituted and prosecuted against any violators
61 under this chapter, without the sanction of the prosecuting at-
62 torney of the county wherein such proceedings are instituted, and
63 in all such cases no security for costs shall be required of the
64 commission. The commission may employ an attorney to repre-
65 sent it in any prosecution under this act, and in such case there
66 shall be taxed as costs, in case of conviction, the sum of ten dol-
67 lars in each case, in addition to the usual amount lawfully taxed,
68 and which ten dollars shall be for the benefit of and paid to said
69 attorney as and for his compensation.

70 (g) The commission shall have the right to offer and pay, in its
71 discretion, rewards for information respecting the violation or
72 for the apprehension and conviction of any violators, of any of
73 the provisions of this act.

74 (h) Any person who hinders, obstructs or interferes with, or
75 attempts to hinder, obstruct or interfere with, the game and fish
76 commission, or any member thereof, or any game protector, or
77 any other officer named herein in the performance of his duties,
78 shall be deemed guilty of a misdemeanor and upon conviction

79 shall be fined not less than fifty and not more than two hundred
80 dollars, or may be confined in jail not more than six months, for
81 each offense, or, in the discretion of the court may be both fined
82 and imprisoned within the limitations aforesaid.

Sec. 3. The ownership of, and the title to, all wild game,
2 wild birds, both resident and migratory, and all fishes and
3 frogs in the state of West Virginia, are hereby declared to be
4 in the state, and no such game, birds, or fishes or frogs shall
5 be taken or killed in any manner, or at any time, except the per-
6 son so taking or killing the same, shall consent that the title
7 thereto shall be and remain in the state of West Virginia, for
8 the purpose of regulating the use and disposition of the same after
9 such taking or killing. The taking or killing of wild game birds
10 or fishes or frogs at any time or in any manner or by any person,
11 shall be deemed a consent of such person that the title thereto
12 shall be and remain in the state, for the purpose of regulating the
13 use, and disposition of the same.

Sec. 4. No person not a citizen of the United States of America
2 shall at any time hunt, pursue, kill or catch any wild game
3 animals, or wild game birds or wild game fowl in this state, or have
4 in his possession fire arms of any kind for such or any of said
5 purposes, or fish for, capture, catch or kill any fish, frogs or
6 turtles, in this state.

7 (b) For the purpose of this chapter the following are game ani-
8 mals: elk, deer, rabbit squirrel and skunk or polecat. The following
9 are game birds or game fowl: the anatadae, commonly known as
10 ducks, geese, swan and brant; the rallidae commonly known as mud
11 hens, rails, coots and gallinules; the limicolae, commonly known
12 as shore birds, plover, snipe, woodcock, tatlers, curlews, ortolan,
12-a sand piper; and the gallinae, commonly known as wild turkey,
13 ruffed grouse or pheasant, quail or bob-white.

14 (c) No person above the age of fifteen years, who is a citi-
15 zen of the United States, shall, at any time, hunt, pursue,
16 kill or catch any wild game animals, or wild game birds or wild
17 game fowl, in this state, or fish for, capture, catch or kill any
18 fish or frogs of any kind whatsoever, without first having secured
19 a license so to do as herein provided, and then only during the
20 respective periods when it shall be made lawful to hunt such wild
21 game animals and wild game birds and wild game fowl, or to fish
22 for, capture, catch or kill such fish or frogs. Such license may be
23 procured in the following manner: the applicant who is a resident

24 of this state shall go before the clerk of the county court of the coun-
25 ty of his residence and in ink fill out and sign his name to a blank
26 application, which blank application shall be prepared by said com-
27 mission and furnished to said clerk by it, and which shall state,
28 among other things to be provided therein by said commission, the
29 citizenship, name, age, occupation or profession, weight, height,
30 place of county resident, color of hair, eyes and complexion of
31 the applicant, and said applicant shall in person make oath there-
32 to before, and file said application with, said clerk. If the ap-
33 plicant be a non-resident of this state, he shall make, sign, swear
34 to and file the like form of application, but such application
35 may be signed and sworn to by him before any person authorized
36 in the state of his residence to administer oaths, but said offi-
37 cer taking such affidavit shall affix his seal thereto, and such
38 application may be filed with, and such license may be granted
39 by, any clerk of the county court of any county in this state to
40 whom such application is made. If applicant is a *bona*
41 *fide* resident and citizen of this state, he may fill out
42 said application and swear to the same before some
43 one authorized to administer oaths and send the same
44 to the county clerk of the county or his residence to-
45 gether with the amount of license tax herein prescribed
46 and sufficient postage for the return of the license, and
47 such clerk shall thereupon issue and send him such li-
48 cense. Before any such license shall be issued to a cit-
49 izen who is a resident of the state of West Virginia,
50 said application shall be made and filed as aforesaid
51 and the applicant shall pay to said clerk so issuing
52 the same the sum of one dollar, and before any such
53 license shall be issued to a citizen who is a non-resi-
54 dent of the state of West Virginia said application
55 shall be made and filed as aforesaid and said applicant
56 shall pay to said clerk the sum of fifteen dollars, *pro-*
57 *vided*, that a *bona fide* land owner of this state, resid-
58 ing herein, or his resident children, or his *bona fide*
59 resident tenant, may hunt, pursue, kill or catch any of
60 the game animals or game birds and fowl, or fish for
61 capture or kill any of the fish or frogs of this state
62 on this land, during the hunting or fishing season there-
63 for, but under the regulations and laws herein expressly

64 made for hunting and fishing, without obtaining a li-
65 cense so to do, *provided, however*, said land shall not have
66 been designated and made, in manner provided by law, a state game
67 refuge or preserve. Nothing herein shall be construed to permit
68 any resident or non-resident member of any club or organization
69 or association of persons owning or leasing a game or fish pre-
70 serve in this state to hunt or fish without having secured such
71 license therefor.

72 (d) The clerk shall issue and deliver to the applicant, upon
73 the granting of such license, a form of license prepared by the
74 commission, which shall be signed by said clerk and be under the
75 seal of the county court of which he is a clerk, and which license

76 shall bear a number according to the serial order in which it was
77 issued. The clerk shall, at the same time, deliver to the applicant
78 a tag which shall be prepared and delivered to the clerk by the
79 commission, bearing on it the serial number and county of said
80 license and the name and residence of the applicant, and contain-
81 ing the words "resident" or "non-resident" as the case may be.
82 Said clerk shall keep an accurate list of all licenses issued by them
83 and of moneys received therefor.

84 (e) No person to whom such license is granted shall be entitled
85 to hunt, pursue, kill or catch any wild game animals or wild game
85-a birds or wild game, fowl, or fish for capture, or kill any fish or
86 frogs, unless, at the time thereof, he shall have such license in his
87 actual possession, and he shall, on demand, exhibit the same to
88 any officer of this state, or to the owner, tenant or lessee of any
89 land on which he is hunting or fishing.

90 (f) Such license shall be issued only until the last day of the
91 calendar year in which the same is issued, and shall permit the
92 holder thereof, in the year in which issued and then only during
93 the times in such year when it is made lawful so to do, to hunt
94 and fish in any of the counties of the state.

95 (g) No person securing such license and tag shall transfer the
96 same to any other person or permit any other person to have or
97 use the same. No person shall have, use or exhibit any license
98 or tag which has not been issued to him in manner provided
99 by law.

100 (h) If any person shall violate any of the provisions of this
101 section, he shall be deemed guilty of a misdemeanor; and upon

102 conviction shall be fined not less than twenty and not more than
103 two hundred dollars, or may be confined in jail not less than
104 ten nor more than sixty days, for each offense, or, at the dis-
105 cretion of the court may be both fined and imprisoned within
106 the limitations aforesaid.

Sec. 5. (a) All moneys received by or paid to any officer or
2 other person of this state for licenses as aforesaid, shall be paid to
3 said commission, in the manner and at the times as hereinafter
4 provided, and said commission shall, on receipt of the same by it.
5 forthwith pay over to the state treasurer such money so received,
6 accompanying such money with a statement showing in detail the
7 source of such money and the purposes for which the same was
8 originally paid. Such officers and other persons so receiving
9 such money shall, on the first day of each month, pay over to said
10 commission all moneys so paid to them during the preceding
11 month, and each such officer and persons shall accompany such
12 payment with a report showing, in case of license money, the
13 name of the county, the names and addresses of the persons pay-
14 ing the same and the date of the receipt thereof. All such money so
15 paid for licenses shall be credited to and kept separately in a
16 "Game and Fish Fund" and shall be used and paid out solely,
17 upon the order of the commission, for the conservation, protection,
18 propagation and distribution of the fish, frogs, wild game and wild
19 birds and fowls of this state, in the enforcement of the fish and
20 game laws of this state, for any of the purpose in this act provided,
21 and for the operation of the commission.

22 (b) All the money so credited to the game and fish fund and
23 applicable as aforesaid to the up-keep and conduct of the com-
24 mission, shall be withdrawn from the state treasury and expended
25 only upon the written voucher of the commission, authorized by it
26 at a meeting duly held, and signed by the chairman of such com-
27 mission.

Sec. 6. (a) All licenses herein authorized to be granted
2 shall be deemed to have been granted by the commission, and the
3 power and authority to revoke said license is vested in the com-
4 mission subject to the rights of a court of competent jurisdiction to
5 exercise general jurisdiction in relation thereto. The violation of
6 any of the provisions of this act by any person holding a license
7 shall be sufficient cause for the refusal of the commission to grant

8 in any year a license to the person so violating any such pro-
9 vision.

10 (b) In case the commission desires to refuse a license to any
11 person, it shall notify the clerk of the county court of the residence
12 of such person, or any such clerk where it is expected such license
13 shall be sought, of the name and address of such person and such
14 other information in relation thereto as it may desire to give, and
15 such clerk shall not issue a license to such person thereafter, and
16 shall report to the commission any application made therefor. In
17 case any clerk shall, after receiving such notice, knowingly issue
18 such license, he shall be guilty of a misdemeanor and upon convic-
19 tion thereof shall be fined not less than ten dollars and not more
20 than one hundred dollars for each offense. The commission may
21 revoke any such license so wrongfully issued.

22 (c) Upon the revocation of any license, the one to whom the
23 same was issued, shall, upon having knowledge of such revocation,
24 forthwith deliver the said license and tag so issued to him to the
25 clerk of the county court of the county who issued the same to him
26 and said clerk shall thereupon transmit the same to the commis-
27 sion.

28 (d) It shall be unlawful for any person in any manner to alter
29 or change any license or tag, issued under the provisions of this
30 act, or to buy or sell, or offer to buy or sell the same, or to transfer
31 the same to another, or to permit another to use it, and it shall
32 be unlawful for any person to use or wear any such license tag or
33 either of them, which has been issued to any other person than
34 himself.

35 (e) A violation of any of the provisions of this section for
36 which no specific punishment is fixed, shall be deemed a misde-
37 meanor, and upon conviction the accused shall be fined not less
38 than twenty or more than one hundred dollars, or confined in jail
39 not less than ten nor more than one hundred days for each offense,
40 or by both fine and imprisonment, within the limitations afore-
41 said.

Sec. 7. (a) No person shall carry any uncased gun in any
2 of the fields or woods of this state, unless he has such properly is-
3 sued and valid license, or unless such person be the bona-fide owner
4 of such field or woods, or his child, tenant or lessee, and the car-
5 rying of such uncased gun in any of the fields or woods of this
6 state by any person not having a license to do so, as aforesaid, or

7 by any person not then such owner, tenant or lessee of such field
8 or woods, or a child of such owner, tenant or lessee, shall be deemed
9 *prima facie* evidence that the person so carrying such uncased gun
10 is hunting game animals or game birds or fowl.

11 (b) Any person having in his possession in the fields or woods
12 in or about the streams or waters of this state any gun or other
13 hunting paraphernalia of any fishing rod or paraphernalia, except
14 it be such owner of such field, woods, stream of water, or the child,
15 tenant or lessee of such owner, shall, upon the demand of any offi-
16 cer mentioned in this act, or by the owner, tenant, lessee, or the
17 agent of the owner of such fields or woods, produce and exhibit his
18 license to such officer or person for inspection, and shall give to
19 said officer or person his correct name and address.

20 (c) No person, to whom such license is issued, shall hunt,
21 pursue, catch or kill game animals, game birds or fowl, or fish for,
22 catch, capture or kill fish or frogs in this state, unless at the time
23 he shall have such license in his actual possession and upon his
24 person.

25 (d) If any person shall violate any of the provisions of this
26 section, he shall be guilty of a misdemeanor, and upon convic-
27 tion thereof shall be fined not less than twenty and not more than
28 one hundred dollars, or be confined in jail not less than twenty and
29 not more than one hundred days, for each offense, or by both fine
30 and imprisonment within the limitations aforesaid. All licenses
31 issued for one thousand nine hundred and twenty-one under the
32 law in force before this act takes effect shall be good for hunting
33 or fishing during such year.

Sec. 8. The commission may, with the consent of the owner or
2 owners of any land in this state, set the same, or any part thereof,
3 aside as a game refuge for the propagation or protection of the
4 wild game animals, wild birds or fowl shall be declared
5 by publication of such fact and the period of time
6 the same shall so remain such refuge, together with a
7 reasonably definite statement of the location and bound-
8 aries of such land or stream, in at least two newspapers pub-
9 lished in the county or each of the counties in which the same is
10 located, or if there be but one then in one such paper, and the com-
11 mission shall post and keep posted thereon or thereabout placard
12 notices of the fact of such refuge. During the time of the mainte-
13 nance of the same as a refuge, no person shall hunt, pursue, kill

14 or catch thereon any wild game or non-game animals or wild birds
15 or fowl, except under the rules and regulations prescribed by the
16 commission for the killing of birds and animals of prey not pro-
17 tected under the law of this state, and upon conviction thereof
18 shall be punished by a fine of not less than ten nor more than
19 one hundred dollars, or by confinement in jail not less than ten nor
20 more than one hundred days, or by both fine and imprisonment
21 within the limitations aforesaid, for each offense. The said com-
22 mission shall have power to take and hold all lands conveyed to
23 or vested in it by deed, contract or will, whether donated by indi-
24 viduals, corporations or associations, or purchased by the state,
25 and preserve and protect the same for park or game preserve pur-
26 poses, and shall have power to preserve and protect the fish,
27 wild animals and birds on the same, and to prescribe and enforce
28 rules, consistent with the laws of this state in order to carry out
29 that object; and may prescribe and enforce rules prohibiting all
30 fishing and hunting and all catching, trapping, capturing and kill-
31 ing of fish, wild animals and birds upon such park and game pre-
32 serve lands, for such a length of time as it may deem proper.

33 Said commission shall investigate the waters of the Gauley,
34 Williams, Greenbrier, Elk, Cheat, Tygarts Valley, New, Blue-
35 Stone, Coal and Guyandotte rivers and report to the governor
36 what lands thereon are suitable for the purposes of a state park
37 and game preserve, together with all information obtainable as
38 to the probable value and the adaptability of such lands for such
39 purposes.

Sec. 9. The commission may, with the consent of the owner of
2 any land or stream in this state, by publication and by posting of
3 notice as aforesaid as provided in section eight of this act, be-
4 cause of drought, forest fires, diseases existing among the fish, or
5 for the purpose of the conservation, protection or propagation of
6 fish and frogs, declare any such stream in this state or any part
7 thereof, a fish or frog refuge and thereafter maintain the same as
8 such. After such declaration no person shall, during the time the
9 same is made a refuge, fish for, capture, catch or kill any fish or
10 frogs in said stream or in any manner pollute the waters thereof,
11 and upon conviction thereof the accused shall be punished by a
12 fine of not less than ten nor more than one hundred dollars or by
13 confinement in jail not less than ten nor more than one hundred

14 days, or by both fine and imprisonment within the limitations
15 aforesaid, for each offense.

Sec. 10. The commission may, in its discretion, offer and
2 pay, from time to time, under such regulations as it may pre-
3 scribe, such bounties on the killing and destruction of wild non-
4 game animals and wild non-game birds which prey upon and de-
5 stroy game animals and game, song and insectivorous wild birds
6 and fowl of this state, as said commission shall deem necessary.

Sec. 11. No person shall hunt, chase, capture, wound or kill
2 any elk in this state at any time for a period of ten years from and
3 after the passage of this act; *provided*, that the owner of any elk
4 which shall be kept in any park or field sufficiently enclosed to rea-
5 sonably prevent their escape therefrom, shall have the right to kill
6 any such elk of his own; and *provided, further*, that such owner
7 may pursue, recapture or kill any of his elk that may escape from
8 his enclosure. Any person violating this section shall be guilty
9 of a misdemeanor, and upon conviction, shall be fined not less than
10 twenty dollars and not more than two hundred dollars and may be
11 confined in the county jail not to exceed sixty days.

Sec. 12. No person shall hunt, capture or kill any deer in this
2 state at any time until the fifteenth day of October, one thousand
3 nine hundred and twenty-three; *provided*, that the owner of any
4 deer which shall be kept in any park or field sufficiently enclosed
5 to reasonably prevent their escape therefrom, shall have the right
6 to kill any such deer of his own; *provided, further*, that such owner
7 may pursue, recapture or kill any of his deer that may escape from
8 his enclosure. Any person violating this section shall be guilty
9 of a misdemeanor and upon conviction shall be fined not less than
10 twenty-five dollars nor more than two hundred dollars, and may be
11 confined in the county jail not more than sixty days.

12 (b) No person or persons shall chase or hunt elk or deer with
13 dogs in this state at any time, or permit his dog or dogs to hunt
14 or chase elk or deer.

15 (c) It shall be lawful to hunt and kill any deer from the fif-
16 teenth day of October, one thousand nine hundred and twenty-three
17 until the thirtieth day of November, one thousand nine hundred
18 and twenty-three, and during such period of time in each year
19 thereafter; *provided*, that tame deer shall be excluded from this op-
20 eration as aforesaid.

21 (d) No person shall kill more than one deer in any one season

22 of each year. No person shall hunt, pursue, catch or kill any
23 deer between nightfall of one day and daylight of the next day.
24 No person shall at any time kill any fawn, doe, or any other deer
25 than bucks with horns or antlers over four inches in length, or
26 have the fresh skin of any doe or fawn in his possession. Each
27 person killing a deer in this state in any season when it is lawful
28 so to do, shall, within twenty days thereafter, inform the commis-
29 sion in writing of such fact, and shall also specify in writing the
30 date and place of such killing, the person by whom killed, the per-
31 sons hunting with him at such time, the estimated age of said deer,
32 the length of its horns or antlers, and what was done with said
33 deer.

34 (e) No person shall hunt, pursue, capture, wound or kill any
35 wild turkey between the first day of December of any one year and
36 the fifteenth day of October of the following year, nor shall any
37 person during said period when it shall be lawful to hunt, pursue,
38 catch and kill wild turkeys, engage therein between nightfall of one
39 day and daylight of the next day, nor shall any person kill more
40 than one wild turkey in any one day, or more than four wild tur-
41 keys in any one open season. In the month of December of each
42 year, it shall be the duty of each person who has killed a wild tur-
43 key in this state to make report of the number killed by him, dur-
44 ing the open season of that year, to the commission, designating
45 whether the same were male or female.

46 (f) It shall be unlawful for any person to hunt, pursue, catch,
47 capture or kill any ruffed grouse between the first day of Decem-
48 ber of one year and the fifteenth day of October of the following
49 year, or any quail or Virginia partridge between the first day of
50 December of one year and the first day of November of the fol-
51 lowing year. Nor shall any person kill more than ten quail or
52 four ruffed grouse in any one day, nor more than sixty quail or
53 twenty ruffed grouse in any one year. No person shall hunt, pur-
54 sue, catch, capture or kill any wild duck, goose or brant, between
55 the first day of January and the fifteenth day of October of any
56 year; *provided*, that the wood duck shall not be killed at any time
57 within this state. No person shall hunt, pursue, catch, capture or
58 kill any woodcock in this state between the thirtieth day of Novem-
59 ber of one year and the fifteenth day of October of the following
60 year; or any plover, ortolan, or sandpiper between the thirty-first
61 day of December of one year and the sixteenth day of September

62 of the following year; or any snipe between the fifteenth day of
63 December of one year and the fifteenth day of October of the fol-
64 lowing year; or any gray, black, fox or red squirrel between the
65 first day of December of any year and the first day of September
66 of the following year. No person shall kill more than eight squir-
67 rels in any one day nor more than sixty in any one open season.
68 (g) No person shall hunt, capture, gig, catch or kill frogs be-
69 tween the first day of April and the first day of June of any year.
70 (h) Any one violating any provision of sub-sections (b), (c),
71 (d), (e), (f), or (g) of this section shall be guilty of a misde-
72 meanor and upon conviction shall be fined not less than twenty nor
73 more than one hundred dollars, or confined in jail not less than
74 ten nor more than one hundred days, for each offense, or by both
75 fine and imprisonment within the limitations aforesaid. The un-
76 lawful killing or capturing of each game animal, game bird, or
77 game fowl shall be deemed a separate offense.

Sec. 13. It shall be unlawful for any person to hunt, catch,
2 wound or kill any rabbit between the first day of January and
3 the first day of October following; *provided*, that it shall be lawful
4 for any person, or the children or the agent of any such person,
5 to hunt, catch or kill any rabbit upon his own land or any land
6 of which he may be a tenant at any time. No person shall at any
7 time hunt, pursue, catch or kill rabbits with ferrets, excepting that
8 the owner of any land, or his children, or his lessee or agent, may
9 lawfully hunt and kill rabbits with a ferret on said land when
10 it is necessary so to do for the protection of the said land or any-
11 thing thereon. It shall be unlawful for any person to catch, kill
12 or injure by means of a gun, snare, trap or poison any red fox,
13 between the first day of February and the first day of Decem-
14 ber following, except in the following named counties: Poca-
15 hontas, Monongalia, Marion, Randolph, Ritchie, Fayette, Pen-
16 dleton, Monroe, Jefferson, Hardy, Wayne, Wood, Gilmer, Han-
17 cock, Lincoln, Hampshire, Braxton, Raleigh, Webster, Putnam,
18 Preston, Lewis, Jackson, Mercer, Nicholas, Greenbrier, Marshall,
19 Berkeley, Tyler, Boone, Logan, Clay, Barbour, Mineral, Mc-
20 Dowell, Tucker, Grant, Ohio and Calhoun; *provided, however*,
21 that it shall be lawful for any person at any time or by any
22 means to catch, kill or pursue any red fox upon his own land,
23 or any lands upon which he may be an actual *bona fide* tenant
24 or resident, and also for the agent of the owner or tenant of

25 such land to so hunt and kill any red fox thereon by the direc-
26 tion of such owner or tenant. It shall be unlawful for any per-
27 son at any time to set or maintain any snare upon the improved
28 or inclosed lands of another without the express permis-
29 sion of the owner or tenant of such lands, or at any time to
30 set or maintain any steel or spring bear trap upon any lands
31 not his own. If any person violate any of the provisions of this
32 section he shall be guilty of a misdemeanor, and upon conviction
33 thereof shall be punished by a fine of not less than ten dollars nor
34 more than one hundred dollars or by confinement in jail of not
35 less than ten days nor more than one hundred days for each of-
36 fense, or by both fine and imprisonment within the limitations
37 aforesaid.

Sec. 14. (a) It shall be unlawful for any person to catch,
2 kill or injure any polecat or skunk between the first day of Febru-
3 ary of any year and the first day of December of the same year, ex-
4 cept that it shall be lawful for the owner of any land, his children,
5 lessee or agent to hunt or kill sunks thereon at any time, and any
6 person violating this section shall upon conviction be punished by
7 a fine of not less than ten dollars nor more than one hun-
8 dred dollars, or by confinement in jail for not less than ten days
9 nor more than one hundred days, or by both fine and imprison-
10 ment within the limitations aforesaid.

11 (b) It shall be unlawful, at any time, to hunt, pursue, catch,
12 capture or kill any Hungarian pheasant or quail, Reeve's pheasant,
13 English pheasant (not meaning thereby ruffed grouse), Lady Am-
14 herst's pheasant, Chinese pheasant, Caporcailzie, or any other for-
15 eign game bird introduced into this state by the commission, or
16 any song or insectivorous bird, and a violation thereof shall be
17 deemed a misdemeanor, and upon conviction the accused shall be
18 punished by a fine of not less than ten nor more than one hun-
19 dred dollars, for each offense, or by confinement in jail of not
20 less than ten nor more than one hundred days, or by both fine
21 and imprisonment within the limitations aforesaid, and the killing
22 of each of any bird so prohibited shall constitute and be a sepa-
23 rate offense.

Sec. 15. (a) It shall be unlawful for any person to catch
2 and keep, or not to return to the water immediately after catching,
3 any jack salmon, commonly called jack fish, or any white sal-
4 mon, less than seven inches in length, or any pike or pickerel of

5 less than ten inches in length, or any bass less than eight inches
6 in length, or any trout less than six inches in length. Fish less
7 than the length prescribed herein shall be returned to the water
8 immediately after being caught with as little injury as possible.
9 The measurement of the fish shall be taken from the end of the
10 nose to the center fork of the tail.

11 (b) It shall be unlawful to fish for, catch, take, kill or destroy
12 any jack salmon, jack fish, or white salmon in any manner be-
13 tween the first day of April and the thirtieth day of May of each
14 year; or any trout or landlock salmon in any manner between the
15 first day of August and the first day of May following; or any
16 black bass, green bass, willow bass, rock-bass, pickerel or wall-
17 eyed pike between the first day of April and the thirtieth day of
18 May of each year.

19 (c) It shall be unlawful for any person to catch or destroy
20 fish in any dam or pond or stream on the enclosed land of any
21 person, except with the written consent of the owner of such dam
22 or pond or stream, unless such dam or pond or stream be a part
23 of the rivers of this state.

24 (d) It shall be unlawful for any person to kill or catch or
25 attempt to kill or catch any fish in this state, or in any water
26 subject to the jurisdiction of this state, at any time, by means of
27 seines, nets or traps, or devices of like nature, unless written con-
28 sent shall have been given by the commission for the use of such
29 seines as hereinafter provided; or by draining water out of
30 any pool, pond, or any stream known to contain trout or bass
31 with the intent to take or injure the fish therein; or by the use
32 of dynamite or any like explosive, or other explosive mixture, or
33 any poisonous drug or substance, or by the use of electricity or
34 lime; or by the use of a gun, rifle, pistol or any other like weapon;
35 or by any other means whatsoever except by rod, line and hook or
36 hooks with natural or artificial lures; *provided*, (1) that it shall
37 be lawful to kill or catch fish in the Ohio river by means of seines
38 between the first day of September of one year and the first day of
39 March of the year following, if and when permission so to do shall
40 have been given in writing by the commission, and in such case
41 upon such terms and conditions as the commission may fix, and
42 *provided*, (2) that any person may employ a seine not more than
43 eight feet in length for the purpose of securing minnows other
44 than salmon, bass, shad, pike and trout, for use in angling, and

45 *provided* (3) that the commission may, at any time, catch fish,
46 with nets, seines or otherwise for the purpose of propagation and
47 protection of the fish of this state; *provided*, that it shall be law-
48 ful to gig any species of fish not mentioned in this section.

49 (e) Any person violating any provision of this section shall
50 be guilty of a misdemeanor, and upon conviction thereof shall
51 be fined not less than ten dollars, nor more than one hundred dol-
52 lars, and may, at the discretion of the court or justice trying the
53 case, be confined in the county jail not exceeding thirty days for
54 each offense, or both fine and imprisonment within the limita-
55 tions aforesaid. *Provided*, that for killing fish by dynamite or
56 other explosive, or poisons, the punishment shall be as follows:
57 any person convicted thereof shall be confined in the county jail
58 for a period of not less than two months, nor more than twelve
59 months, and shall, at the discretion of the court, be fined not less
60 than twenty-five dollars nor more than one hundred dollars; but
61 upon conviction of the same person for the second offense in this
62 state, he shall be guilty of a felony and be confined in the peni-
63 tentiary not less than one nor more than three years.

Sec. 16. The game commission may hunt, capture and main-
2 tain in captivity, at any time, for the purpose of propagation,
3 protection and distribution, any of the game animals, game birds,
4 game fowl, fish or frogs or any of the wild animals, wild birds
5 and wild fowl of this state.

Sec. 17. It shall be unlawful for any person, at any time,
2 to catch, capture or kill, or attempt to catch, capture, or kill,
3 at any time by seine, net, bait, trap or snare or like device of
4 any kind, any wild turkey, ruffed grouse, pheasant, quail, or catch,
5 capture or kill any elk or deer by means of any poison, bait, trap
6 or snare, or any other like means or device, and any person vio-
7 lating any of the provisions of this section shall be guilty of a mis-
8 demeanor, and upon conviction thereof shall be fined not less
9 than ten nor more than one hundred dollars, or by confinement in
10 jail not less than ten nor more than one hundred days, or by both
11 fine and imprisonment within the limitations aforesaid.

Sec. 18. It shall be unlawful to hunt, catch, kill or injure,
2 or pursue with intent to catch, kill, or injure any game animals,
3 game birds, game fowl, or any other animal or bird or fowl pro-
4 tected under the provisions of this chapter, on the first day of a
5 week commonly known as Sunday, and any person violating any

6 provision of this section shall be guilty of a misdemeanor and
7 upon conviction thereof fined not less than ten nor more than
8 one hundred dollars for each offense, or by confinement in jail
9 not less than ten nor more than one hundred days, or by both
10 fine and imprisonment within the limitations aforesaid.

Sec. 19. No. person, firm or corporation shall build, erect,
2 keep or maintain any dam or any other structure in any river,
3 creek or water course in this state, which shall in any way pre-
4 vent or obstruct the free and easy passage of the fish up or down
5 such river, creek or other water course, without first building, or
6 erecting as a part of such dam or other structure, a good and
7 sufficient ladder or way so constructed as to allow fish easily to
8 ascend or descend the same, and such ladder or way shall be con-
9 structed only upon plans, in a manner and at a place satisfactory to
10 the commission. Any person, firm or corporation violating any
11 of the provisions of this section shall be guilty of a misdemeanor
12 and upon conviction shall be fined not less than ten nor more than
13 one hundred dollars, and such person, or in case of violation by
14 a corporation the officers or agents thereof violating this section
15 may be punished further by imprisonment in jail not less than
16 ten days nor more than one hundred days, or upon conviction
17 thereof by both fine and imprisonment within the limitations
18 aforesaid. Each day such dam or structure is maintained shall
19 constitute and be a separate offense and punishable as such.

Sec. 20. It shall be unlawful for any person, firm or corpora-
2 tion to throw, discharge or cause to enter into any stream, water-
3 course or water in this state saw dust, or other matter deleterious
4 to the propagation of fish. It shall be lawful, however, to drain or
5 cause to be drained from any mine in this state by the owner or
6 operator thereof the water that naturally collects in such mine
7 and the water from any coal washery, and to discharge the same
8 into any stream, water-course or water in the state; *provided*,
9 *however*, that any mine from which the water is so discharged or
10 drained shall be kept in a sanitary condition and the water drain-
11 age or flowing from such mine, and from such washery, shall,
12 while in the mine and on the premises of the mine owner or
13 operator, be kept free from pollution by human or animal excre-
14 ment or substance deleterious to health. And the state board
15 of health, its agents, employees and servants shall at all seasonable
16 times have authority to enter upon the premises and into any

17 such mine in order to see that the same is kept in a sanitary con-
18 dition and that the waters draining therefrom are free from the
19 objectionable substance named herein; with the right to the state
20 board of health to prevent any mine owner or mine operator who
21 fails to comply with the provisions of this act from draining or
22 discharging the water or waters, from his or its mine into any
23 stream, water or water-course in the state; *provided fur-*
24 *ther*, that any mine owner or operator having one suit-
25 able, convenient and sufficient outlet for the water from
26 his or its own mine into one stream shall not cause
27 the same to be drained into any other stream. Any
28 person, firm or corporation violating any of the provisions
29 of this section shall be guilty of a misdemeanor, and fined not less
30 than ten nor more than one hundred dollars, and such person
31 violating this section, and the officer or agent of any corporation,
32 who directs or participates in the violation of this section, may
33 be imprisoned in jail not less than ten nor more than one hundred
34 days, or both such fine and imprisonment may be imposed for
35 such violation.

Sec. 21. All prosecutions under this chapter shall be in the
2 name of the state of West Virginia and the justices of the peace
3 in their respective jurisdiction shall, in all misdemeanors, have
4 concurrent jurisdiction with the circuit or other criminal courts
5 of any county.

Sec. 22. No person shall, within the state of West Virginia
2 kill or catch, or have in his possession, living or dead, any wild
3 bird other than a game bird or a wild bird for which a bounty
4 has been offered by the commission; or purchase, offer or ex-
5 pose for sale, transport within or without the state, any such bird,
6 except as aforesaid. No part of the plumage, skin or body of
7 any bird protected by this section shall be sold or had in pos-
8 session for sale irrespective of whether said bird was captured
9 within or without the state, except the English or European
10 sparrow, owls, hawks, eagles, crows, king fishers and the common
11 black bird, sometimes called the "crow" black bird, which are not
12 included among the birds protected by this chapter, and the killing
13 thereof at any time is lawful.

Sec. 23. No person shall wilfully or needlessly destroy or
2 attempt to destroy the nest or the eggs of any wild bird, or have
3 such nest or eggs in his possession, except it be the nest or eggs of

4 a bird for which a bounty has been offered by the commission, or
5 unless such person be acting under a certificate issued by the com-
6 mission to any person for the purpose of collecting birds, their
7 nests or eggs, for scientific purposes.

Sec. 24. Any person violating any of the provisions of sec-
2 tions twenty-two and twenty-three shall be guilty of a misde-
3 meanor and upon conviction thereof shall be punished by a fine
4 of not less than ten nor more than one hundred dollars or by con-
5 finement in jail not less than ten nor more than one hundred days,
6 or by both fine and imprisonment within the limitations aforesaid.

Sec. 25. No person shall, at any time, kill or have in his pos-
2 session any deer, quail, pheasant, or ruffed grouse, wild turkey,
3 squirrel, or any part of the same, or any game fish or frog
4 killed, caught or captured in this state, with the intention of trans-
5 porting the same or having the same transported beyond the limits
6 of the state. No person shall transport beyond the limits of this
7 state any elk, deer, quail, pheasant, or ruffed grouse, wild turkey,
8 squirrel, wild duck or wild goose or game fish or frog, so
9 killed, caught or captured within this state.

10 (b) It shall be unlawful for any person at any time to pur-
11 chase, or offer to purchase, or to sell, or offer to sell, or expose for
12 sale, or have in his possession for the purpose of selling any elk,
13 deer, squirrel, wild turkey, ruffed grouse, quail, woodcock, wild
14 duck, wild goose, wild swan, wild brant, snipe, sandpiper, or any
15 of the song or insectivorous birds of this state, and it shall be un-
16 lawful for any person at any time to purchase, or offer to purchase,
17 or sell or expose for sale any trout of any species, salmon of any
18 species, pike, or any bass of any species, or perch, or any frog,
19 caught or captured within the state, and it shall be unlawful for
20 any person or common carrier to transport, carry or convey or to
21 receive for such purpose, any of the animals, birds or fowls afore-
22 said, or any part of the same or said fish or frogs so caught or killed
23 within the state, knowing or having reason to believe that said
24 animals, birds, fish or frogs had been or were to be sold. The sell-
25 ing or exposing for sale, having in possession for sale, transport-
26 ing and carrying, contrary to the provision of this section of each
27 and every animal, fish, or bird, the sale of which is prohibited in
28 this section shall constitute and be a separate offense.

29 (c) It shall be unlawful for any person, firm or corporation to
30 employ or hire, or to induce or persuade, by the use of money or

31 other thing of value, or by any means to induce, any person to
32 hunt, watch, or kill for such other person, firm or corporation,
33 any game animal, game bird or game fowl, or any other bird or
34 fowl for which no bounty has been offered by the commission, or
35 to fish for, catch or kill any fish or frog which is protected under
36 any of the provisions of this chapter, or the sale of which is pro-
37 hibited by this chapter. It shall be unlawful for any person to
38 charge, accept, receive or take money, wages, hire or reward of any
39 kind, to hunt, pursue, capture or kill, for any other person, any
40 game animal, or game bird or game fowl, or any song or insectiv-
41 orous bird, or any game fish or frog.

42 (d) It shall be unlawful for any person to serve for pay, either
43 directly or indirectly, at any hotel, restaurant, or other licensed eat-
44 ing place in this state, or in any eating place in this state, any
45 game animal, game bird, or game fowl, or any part thereof whether
46 caught within or without this state or any game fish or frog, caught
47 within this state.

48 (e) Any person violating any of the provisions of this section
49 shall be deemed guilty of a misdemeanor and upon conviction shall
50 be fined not less than ten nor more than two hundred dollars, or by
51 confinement in jail not less than ten nor more than one hundred
52 days, or by both fine and imprisonment within the limitations
53 aforesaid, and in the case of violation by a corporation every offi-
54 cer or agent directing or engaged in the violation shall be guilty,
55 and, in the discretion of the court punishment may be by both fine
56 and imprisonment.

Sec. 26. It shall be unlawful for any person while engaged in
2 the hunting or pursuing game animals, game birds or game fowl
3 carelessly or negligently to shoot or wound or kill any human being
4 or any live stock or destroy or injure any other chattels or prop-
5 erty, and any one violating this section shall be deemed guilty of
6 misdemeanor, and upon conviction thereof may be fined not exceed-
7 ing one thousand dollars, and, in the discretion of the court trying
8 the case, may in addition thereto be confined in the county jail for
9 a period conceeding one year.

Sec. 27. It shall be unlawful for any person to shoot or dis-
2 charge any firearms across or in any public road in this state, at
3 any time, or within four hundred feet of any school house or
4 church, or five hundred feet of any dwelling house, or on or near
5 any park or other place where persons gather for purposes of

6 pleasure, and any person violating this section shall be deemed
7 guilty of a misdemeanor and upon conviction thereof shall be fined
8 not less than ten nor more than one hundred dollars, or at the dis-
9 cretion of the court may be imprisoned not more than one hundred
10 days for each offense.

Sec. 28. It shall be unlawful for any person to shoot, hunt,
2 fish or fowl upon the enclosed or improved grounds of another
3 person, or to camp, peel trees, cut trees, or timber, build fires or
4 do any other act or thing thereon in connection with or auxiliary
5 to shooting, hunting, fishing or fowling on the lands of another
6 person without permission in writing from the owner, lessee or
7 other person entitled to the possession of such lands or the tenant or
8 agents of such owner, lessee or person entitled to the possession
9 thereof, duly authorized to give such written permission, and every
10 person hunting, fishing, shooting or fowling upon such lands shall
11 have such written permission, with him when so doing. Any per-
12 son violating any of the provisions of this section shall be deemed
13 guilty of a misdemeanor, and upon conviction thereof shall be
14 fined not less than ten dollars nor more than fifty dollars and may
15 in the discretion of justice, be confined in the county jail not more
16 than thirty days; and if any person be convicted a third time of
17 such offense, he shall be confined in the county jail for a period of
18 not less than three nor more than thirty days in addition to any
19 fine imposed, and in all cases he shall be confined in the county
20 jail until such fine and costs are paid; *provided*, that such time
21 shall not exceed thirty days. It shall be lawful for the owner, lea-
22 see, or the person entitled to the possession of such lands or the
23 agent thereof, to arrest any such person found violating this sec-
24 tion and immediately take him before a justice of the peace for
25 trial, and such owner, lessee, person or agent, is hereby vested with
26 all the powers and rights of a game protector for such purpose; and
27 it is hereby made the duty of the game protectors to see that this
28 section is enforced, if requested so to do by such owner, lessee, per-
29 son or agent, but not otherwise.

Sec. 29. It shall be unlawful to fish for, catch, capture or take,
2 or attempt to catch, capture or take, any fish in or from any
3 spring, brook, stream or run, situate on unenclosed land which is
4 the property of any person, firm or corporation, except with the
5 consent of the owner of such unenclosed land; *provided*, (1), that
6 the owner of such unenclosed land shall have erected and does

7 maintain, at conspicuous and frequent places about said spring,
8 or about and along said brook, stream or run, signs or placards at
9 least one foot square on which shall be the words "no fishing or
10 trespassing allowed here", together with the name of the person so
11 owning such unenclosed land, which signs shall be placed in the
12 case of a brook, stream or run, at or near the point where the same
13 enters, and another at or near the point where the same leaves the
14 land of such person and at least another one for each mile of said
15 stream placed about an equal distance from each other. Any per-
16 son violating this section shall be guilty of a misdemeanor, and
17 upon conviction shall be fined not less than ten and not more than
18 two hundred dollars, or may be confined in jail not less than ten
19 and not more than one hundred days, or may be both fined and im-
20 prisoned within the limitations aforesaid.

Sec. 30. (a) The commission is vested with authority and
2 power to protect the forest against injury or destruction by fire,
3 and for which purposes they may appoint local protectors for
4 each county, with pay at the rate of three dollars and fifty
5 cents per day when actually engaged in fighting fire. And it is
6 made the duty of the commission, the chief game protector and the
7 game protectors, upon receiving notice of any such forest fire to
8 employ all the necessary means to confine or extinguish the same.
9 For this purpose authority is given to destroy fences, plough lands
10 or in cases of extreme emergency, to set back fires. The chief game
11 protector and game protectors may, under the general supervision
12 of the commissioner, in case of emergencies, summon or employ
13 persons to assist in fighting fires, who shall be paid at the rate of
14 three dollars a day for the actual time so employed in fighting such
15 fires. Any person who shall fail or refuse to assist in the fighting
16 of such fires shall, unless such failure is due to physical inability,
17 be convicted of a misdemeanor, and upon conviction be fined not
18 less than ten nor more than twenty dollars for each offense.

19 (b) All services rendered at forest fires except that rendered
20 by a chief game protector or game protectors, shall be charged
21 against the county in which the fire was, and each game protector
22 shall render to the county court, within twenty days after such fire,
23 and also to the commission, a sworn statement of the time used in
24 fighting such fires with the name or names of all persons who were
25 summoned and assisted thereat and the amount of money due each
26 therefor.

27 (c) Whoever by himself, or by his servants, agents or guide, or
28 the servant, agent or guide of any other person, shall build any fire,
29 or use an abandoned fire in a field, public or private road, or ad-
30 jacent to, or in any woods or forest in this state, shall, before leav-
31 ing such fire, totally extinguish the same, and upon failure to do so,
32 such person, or persons, shall be deemed guilty of a misdemeanor,
33 and upon conviction thereof, shall be fined not less than twenty-five
34 dollars nor more than one hundred dollars and costs of the prosecu-
35 tion, and upon default in paying said fine and costs shall be con-
36 fined in the county jail not more than ninety days unless said fine
37 and costs be sooner paid. If any person, or persons, negligently set
38 on fire any woods, fields or lands within this state, so as thereby to
39 occasion loss, damage or injury to any other person, he shall be
40 guilty of a misdemeanor and upon conviction thereof, shall be fined
41 not less than fifty dollars nor more than five hundred dollars, and
42 in the discretion of the justice of court trying the case, be impris-
43 oned in the county jail not to exceed one year, and upon default in
44 payment of the fine and costs, he shall be imprisoned in the county
45 jail not to exceed six months, and if any person or persons wilfully
46 set on fire any woods, fields or lands within the state, not his own
47 so as thereby to occasion damage or injury to any other person, he
48 shall be guilty of a felony and on conviction thereof, shall be con-
49 fined in the penitentiary not less than one nor more than two years.

50 (d) Every railroad company shall on such part of its road as
51 passes through forest lands or lands subject to fires from any cause,
52 cut and remove from its right of way along such lands, at least
53 twice a year, all grass, brush and other inflammable materials and
54 employ in seasons of drought and before vegetation has revived in
55 the spring, sufficient trackmen to promptly put out fires on its right
56 of way; provide locomotives thereon with netting of steel or iron
57 so constructed as to give the best practicable protection against the
58 escape of fire and sparks from the smoke stacks thereof, and ade-
59 quate devices to prevent the escape of fire from ash pans and fur-
60 naces which shall be used on such locomotives.

61 No railroad company or employee thereof, shall deposit fire coals or
62 ashes on its track or right of way near such lands. In case of fire
63 on its own or neighboring lands, the railroad company shall use all
64 practicable means to put it out. Engineers, conductors or trainmen
65 discovering or knowing of fires in fences or other material along or
66 near the right of way of the railroad in such lands, shall report the

67 same at the first station to the station agent, and such station agent
68 shall forthwith notify the nearest game protector and use all neces-
69 sary means to extinguish the same. And any officer or employee of
70 a railroad company violating any provisions of this section shall be
71 guilty of a misdemeanor and upon conviction thereof, shall be fined
72 a sum not less than twenty nor more than two hundred dollars.

73 (e) The commission shall in the name of the county in which
74 any forest fire has occurred, and which has been extinguished, or
75 suppressed by its efforts, recover from the person or persons, firm
76 or corporation giving origin to such fire, the amount so expended
77 in extinguishing said fire and the costs thereof, and the same shall
78 not bar the rights of damage between the parties thereto.

79 The commission may do all things required to meet the con-
80 ditions and requirements of the federal government in securing
81 federal co-operation under the provisions of the Weeks law, for
82 the purpose of preventing and controlling forest fires, and for
83 the purpose of aid and co-operation with the federal government
84 in this respect, the sum of ten thousand dollars is hereby appropri-
85 ated.

86 The commission may co-operate with owners of forest lands and
87 receive financial assistance from them for the purpose aforesaid
88 and do any and all things necessary therefor, including the estab-
89 lishment and maintenance of patrol routes and lookout stations;
90 *provided*: that the commission shall expend therefor only such
91 moneys as shall be appropriated for that purpose by the state and
92 such moneys as may be contributed therefor by the private owners
93 and such part of the funds divided from amounts paid for, the
94 game and fish licenses as it shall think best, except that the com-
95 mission shall not in any one year expend out of such fund derived
96 from the amounts paid for licenses for such fire prevention and
97 control purposes more than twenty-five per cent of such year's li-
98 cense fund.

Sec. 31. The commission, by and with the consent of the gov-
2 ernor, shall have the power and right to purchase, in the name of
3 the state, lands suitable for forest culture or game and fish re-
4 serves, out of any unused funds in the hands of the commission
5 under this chapter, but such purchases may be made on not less
6 than one-third of the purchase price to be paid down at the time of
7 the conveyance and the residue in not less than one and two years
8 after date, and when so purchased the commission may maintain

9 the same as a forest, game and fish reserve and make such regu-
10 lations for the upkeep, protection and operation of the same as
11 said commission may deem necessary, and for the purpose of
12 establishing such forest, game and fish reserves the commission
13 may take any gift of any land. In the case of gifts or purchases
14 the absolute fee simple shall pass to the state except for the reser-
15 vation of minerals and the mining rights to remove such min-
16 erals.

Sec. 32. Any person violating any of the provisions of this act
2 the punishment for which is not expressly fixed, shall be deemed
3 guilty of a misdemeanor, and shall be fined not less than ten and
4 not more than one hundred dollars, or confined in jail not less
5 than one hundred days, or may be punished by both fine and
6 imprisonment, at the discretion of the court, but within the limi-
7 tations aforesaid, and in a case of a corporation all the agents and
8 officers of such corporation directing or engaged in or about
9 such violation may be punished aforesaid.

Sec. 33. Any person may kill any dog that he may see chasing,
2 worrying, wounding or killing any sheep, lambs, goats or kids
3 outside of the enclosure of the owner of such dog, unless the
4 same be done by the direction of the owner of such sheep, goats
5 or kids.

Sec. 34. If any dog shall have killed or assisted in killing,
2 wounding or worrying any sheep, lambs, goats or kids out of the
3 enclosure or the owner of such dog, the owner or keeper of such
4 dog shall be liable to the owner of such sheep, lambs, goats or kids
5 in the amount of the damages sustained, to be recovered in action
6 before any court or justice having jurisdiction of such action; and
6-a it shall not be necessary to sustain such action, to prove that the
7 owner of such dog, knew such dog was accustomed to do such wor-
8 rying, killing or wounding; but a recovery under this section shall
9 bar and preclude the owner of such sheep, lamps, goats, or kids
10 from obtaining compensation from the county court and when
11 compensation is obtained from the county court under any law
12 which is now or may hereafter be in force, then the county wherein
13 the payment is made, is authorized to sue under this section, and
14 recover as the owner of the sheep, lambs, goats or kids, might
15 have done, and the amount so recovered shall be paid into the
16 county treasury; but no suit shall be commenced unless authorized
17 by the county court. Any person who shall harbor or secrete or

18 aid in secreting any dog which he knows or has reasons to believe
19 has worried, chased or killed any sheep, lambs, goats or kids, not
20 the property of the owner of such dog, out of his enclosure, or
21 knowingly permits the same to be done on any premises under
22 his control, shall be guilty of a misdemeanor, and upon con-
23 viction thereof before any court or justice having jurisdiction
24 thereof, in the county in which the offense is committed, be fined
25 not less than ten dollars nor more than fifty dollars, and at the
26 discretion of the court or justice, imprisoned in the county jail
27 not more than thirty days; and each day that such dog is harbored,
28 kept or secreted, shall constitute a separate offense.

Sec. 35. The owner or keeper of any dog that has been worry-
2 ing, wounding, chasing or killing any sheep, lambs, goats or kids,
3 not the property of such owner or keeper, out of his enclosure,
4 shall, within forty-eight hours after having received notice thereof
5 in writing from reliable and trustworthy source, under oath, cause
6 such dog to be killed; if the owner or keeper refuse to kill said
7 dog as hereinbefore provided any justice of the peace upon infor-
8 mation, shall summon the owner or keeper of said dog, and after
9 receiving satisfactory proof that his dog did the mischief, shall
10 issue a warrant on application being made by the owner of the
11 sheep, lambs, goats or kids killed, and give it into the hands of the
12 constable, special constable or sheriff, who shall kill the dog forth-
13 with; the cost of said proceedings shall be paid by the owner of
14 the dog so killed, including a fee of fifty cents to the officer
15 killing the sai dog; the owner of said dog so killed, shall, in
16 addition to the costs, be liable to the owner of the sheep, lambs,
17 goats, or kids, or to the county court for the value of the sheep,
18 lambs, goats or kids so killed or injured.

Sec. 36. It shall be unlawful for any unnaturalized foreign
2 born resident of this state to own or keep a dog of any kind in this
3 state.

Sec. 37. Any person violating any provision of section thirty-
2 three, thirty-four, thirty-five and thirty-six of this act or failing
3 or neglecting to perform any duty imposed by said sections thirty-
4 three, thirty-four and thirty-five shall be liable, in an action of pros-
5 ecution before any court or justice having jurisdiction, for the
6 amount of damage sustained, and also for a fine of not to exceed
7 one hundred dollars and the cost of prosecution, or to imprison-

8 ment in the county jail for not more than thirty days, or to both
9 fine and imprisonment.

Sec. 38. The commission shall have the power to suspend and
2 prohibit for certain and definite fixed periods, the catching of fish
3 in any stream or part of stream in this state, but before such sus-
4 pension and definition shall become effective, it shall give notice by
5 publication, once a week for two successive weeks, in the newspa-
6 pers of the county, or each county, when such stream is located of
7 such suspension and prohibition, and definitely fix by proper de-
8 scription in such notice such stream and state therein the period of
9 such suspension and prohibition.

10 The commission shall have the power to suspend and prohibit
11 the hunting or killing of any of the game animals or birds men-
12 tioned in this chapter for a definite and fixed period in any county
13 in the state of West Virginia, but not to exceed one year at a time.
14 Before such suspension and prohibition shall become effective, the
15 commission shall give notice of that fact by publication in all the
16 newspapers of such county at least once in each week for two weeks
17 before the date of the beginning of such suspension and prohibi-
18 tion, and such notice shall state the time of such suspension and
19 prohibition and name the birds and animals, the killing of which is
20 therein prohibited. The commission shall also have the power in
21 like manner to change the dates of the hunting of quail or Virginia
22 partridge in any county; but the open season shall not in any event
23 be for more than thirty days in any year.

24 When the commission shall have done any of the things set out
25 in this section and given notices as set out in this section, then any-
26 one fishing in such streams or hunting or killing any of the ani-
27 mals or birds, the killing of which is prohibited at any time by
28 this chapter, shall be guilty of a misdemeanor and upon conviction
29 thereof shall be fined not less than ten nor more than one hundred
30 dollars, and may be confined in the county jail for the period of
31 sixty days or both, in the discretion of the court.

Sec. 39. All acts or parts of acts inconsistent with this act are
2 hereby repealed.

House Bill No. 428

(Committee Substitute for House Bill No. 428.)

(By the Committee on Military Affairs.)

AN ACT to amend and re-enact sections, one, seven, nine, ten, nineteen, forty-four and fifty-four of chapter eighteen of the code, relating to the military code or national guard of West Virginia, and to repeal sections eleven, twelve, sixteen, twenty-one and forty-five of said chapter eighteen of the code.

Be it enacted by the Legislature of West Virginia:

That sections eleven, twelve, sixteen, twenty-one and forty-five of chapter eighteen of the code be and the same are hereby repealed, and that sections one, seven, nine, ten, nineteen, forty-four and fifty-four of chapter eighteen of the code, be amended and re-enacted so as to read as follows:

Section 1. This chapter shall be known as the military code.

2 The governor of this state is authorized to reorganize the national
3 guard of West Virginia under the provisions of the national de-
4 fense act, of June third, one thousand nine hundred and sixteen,
5 and amendments thereto. He is authorized to appoint an adjutant
6 general under whose direction the national guard shall be reorgan-
7 ized and maintained.

Sec. 7. The duty of maintaining and governing the national
2 guard not in the service of the United States rests upon the state,
3 subject to the constitutional authority of congress. The pur-
4 pose of the force is national defense. Its efficiency as an agent
5 for national defense necessarily depends upon systematic uniform-
6 ity in the organization, composition, arms, equipment, training
7 and discipline of its component parts. The attainment of such
8 uniformity and efficiency require on the part of each state a
9 rigid adherence to federal laws and regulations relating to the
10 militia. Therefore, the governor shall cause the national guard
11 of this state always to conform to all such federal laws and
12 regulations as are now or may hereafter from time to time
13 become operative and applicable, notwithstanding anything in the
14 laws of this state to the contrary.

Sec. 9. The national guard of West Virginia shall consist
2 of the commissioned officers, enlisted men, staff, corps, depart-
3 ments and organized militia of West Virginia regularly organ-
3-a ized and maintained pursuant to law. The governor shall

4 have power to alter, divide, annex, consolidate, disband
5 or reorganize the same and create new organizations when-
6 ever, in his judgment, the efficiency of the state force will be
7 thereby increased, except in so far as such action would be con-
8 trary to the provisions of the regulations of the war department
9 governing the organized militia; and he shall at any time have
10 power to change the organization of departments, brigades, regi-
11 ments, battallions and companies so as to conform to any organi-
12 zation, system of drill, or instruction now or hereafter adopted for
13 the army of the United States, and for that purpose the number
14 of officers of the brigade, regiments, battallions and companies may
15 be increased or diminished and their rank increased or reduced
16 to the extent made necessary by such change. The officers of the
17 foregoing departments shall be of like rank as officers of similar
18 departments of the army of the United States and shall perform
19 like duties; the number of such officers to be determined by the
20 commander-in-chief, but this number shall be limited to the
21 actual requirements of the different departments, and the com-
22 mander-in-chief may designate one officer as chief of a number
23 of different departments, unless such action would be contrary to
24 the regulations provided by the war department for the govern-
25 ment of the organized militia. The governor shall have the power
26 in case of war, insurrection, invasion or imminent danger thereof,
27 to increase the force beyond the minimum now established by law
28 and to organize the same with the proper officers as the exigencies
29 of the service may require. In the event of the formation of any
30 such new organizations, officers holding commissions in the
31 national guard as organized at such time, shall be eligible for com-
32 sion in said new organizations with like or higher grade and rank
33 if found capable, after examination by a regular authorized board
34 and shall be given preference over the one not holding commission
35 at the time.

Sec. 10. The number and grades of officers and enlisted men
2 in the staff corps and departments, shall be as prescribed by fed-
3 eral law and regulations thereunder issued by direction of the
4 secretary of war. In case of emergency, line officers of the
5 national guard, active or reserve, may be temporarily detailed by
6 the governor for staff duty.

6-a All officers of the staff corps and departments shall be appointed
7 by the governor from officers or ex-officers who have had previous

8 military experience of not less than two years, and shall hold their
9 respective grades until they reach the age of sixty-four years,
10 unless they resign or are discharged for disability, or by reason
11 of the findings of a court-martial legally convened for the trial
12 of such officer, and vacancies shall be filled by appointment of per-
13 sons fulfilling the above requirements of this section.

Sec. 19. The governor shall be commander-in-chief of all
2 military forces of the state except those which may be in the ser-
3 vice of the United States and during such service. It shall be
4 the duty of the governor to appoint and commission all officers
5 of the military forces of the state, who shall be selected from the
6 classes prescribed in the national defense act, and to issue neces-
7 sary regulations for the government of such forces.

Sec. 44. The pay for officers and enlisted men of West Vir-
2 ginia national guard for service at camps of instruction, rifle
3 practice, practice marches and maneuvers, or duties ordered by
4 the President of the United States shall be such as are provided
5 in the national defense act or amendments thereto. Officers and
6 enlisted men, when employed in the actual service of the state, as
7 defined and provided in this act, beginning on the day they as-
8 sembled at their armories, or other designated places, until the day
9 they have returned thereto and been properly relieved, inclusive,
10 fractional parts of a day, counting as a full day, shall receive pay
11 and allowances at the following daily rates.

12 Officers, the same base pay which is now in effect or which may
13 hereafter be provided for like grades in the army of the United
14 States. Transportation and subsistence will be provided for by
15 the state; *provided*, officers detailed in adjutant general's office
16 shall not receive subsistence.

17 Enlisted men, twice the base pay now or hereafter provided for
18 like grades in the United States army.

19 All payments made under the provisions of this chapter except
20 for active service, shall be paid out of the military fund and all
21 expenses incurred in active service shall be paid out of any moneys
22 in the treasury not otherwise appropriated. The military fund
23 shall be disbursed on warrant of the adjutant general, properly
24 drawn and in such manner as the governor may order, but no
25 warrant nor funds signed by him shall be honored by the auditor
26 until such adjutant general shall have executed and filed such
27 bond as may be required by the commander-in-chief. Payments

28 shall be made on proper vouchers, which vouchers shall show
29 the authority under which the expenditure is made, contain an
30 itemized statement of the transaction and be filed for record in the
31 office of the adjutant general. All claims for services rendered or
32 material furnished shall be approved by the officers ordering the
33 work or material and shall be over his certificate to the effect that
34 the amount is just and reasonable and that it had not been pre-
35 viously paid. No expenditures shall be made by any officer until
36 an estimate of the amount and a statement of the necessity there-
37 for shall have been made before the adjutant general and his ap-
38 proval received. Where practicable, competitive bids shall be re-
39 ceived for all work or material involving an expenditure of more
40 than two hundred dollars and the contract will be let to the lowest
41 responsible bidder, who, if required by the commander-in-chief.
42 shall enter into a good and and sufficient bond for the proper per-
43 formance of his contract.

44 The several railroads and other transportation companies in
45 this state shall furnish transportation for all officers and enlisted
46 men in the national guard, together with the stores, ammunition,
47 and equipments when traveling on duty under orders from com-
48 petent authority, under request of the officer desiring transpor-
49 tation, which request will state the number of persons to be car-
50 ried and their destination, and for such transportation, said com-
51 panies shall be entitled to receive compensation from the state at
52 the rate specified.

Sec. 54. In event of war, insurrection, rebellion, invasion, tu-
2 mult, riot, mob or body of men acting together by force with in-
3 tent to commit a felony or to offer violence to persons or property,
4 or by force and violence to break and resist the laws of this state,
5 or the United States, or in case of the imminent danger of the
6 occurrence of any said events, or in event of public disaster, the
7 governor shall have power to order the West Virginia national
8 guard or any part thereof into the active service of the state, and
9 to cause them to perform such duty as he shall deem proper.

House Bill No. 87

(House Bill No. 87—Mr. Freed.)

AN ACT to amend and re-enact sections eight and eleven of an act of the legislature passed February seventeen, one thousand nine hundred and seventeen, regarding the public service of stallions and jacks and providing penalty for violation thereof.

Be it enacted by the Legislature of West Virginia:

That sections eight and eleven of an act of the legislature of one thousand nine hundred and seventeen, be amended and re-enacted so as to read as follows:

Section 8. Any owner of any bull, ram, or boar, kept for public service within the state of West Virginia, or any owner or keeper of any bull, ram, or boar, kept for sale, exchange or transfer, who represents such animal to be pure bred, may cause the same to be registered in some herd, flock or record book as the case may be, recognized by the United States department of agriculture at Washington, D. C., for the registration of pedigrees, and obtain a certificate of registration of such animal. He may then forward the same to the commissioner of agriculture of the state of West Virginia, whose duty it shall be to examine and pass upon the correctness or genuineness of such certificate filed for enrollment. In making such examination said commissioner of agriculture shall use as his standard the record books recognized by the United States department of agriculture at Washington, D. C., and shall accept and enroll as pure bred, any animal registered in such record book. If such registration is found to be correct and genuine, he shall issue a certificate of enrollment under the seal of the department of agriculture of the state of West Virginia, which certificate shall set forth the name, breed, age and color of the animal and also the volume and name of the herd, flock or swine record book in which said animal is registered. Any owner or keeper of any bull, ram, or boar, kept for public service within the state of West Virginia, who represents or holds such animal as pure bred, may place on the door or stall where the animal is usually kept, a copy of the certificate of enrollment from the commissioner of agriculture as provided in section one of this act. *Provided*, that it shall be unlawful on and after January 1, one thousand nine hundred and twenty-three, for any person to keep

29 any breeding animal for public service for pay, which is not pure
30 bred and which has not been properly registered in accordance with
31 this act.

Sec. 11. Any person who shall fraudulently represent any
2 animal, horse, cattle, sheep or swine to be pure bred, or any per-
3 son who shall post or publish, or cause to be posted or published
4 any false pedigree or certificate, or shall use any stallion or other
5 male breeding animal for public service, exchange or transfer any
6 such animal for service within the state of West Virginia, repre-
7 senting such animal to be pure bred without first having such
8 animal registered, and obtaining the certificate of commissioner of
9 agriculture as hereinbefore provided, or who shall violate any of
10 the provisions of this act, shall be guilty of a misdemeanor and
11 shall be punished by a fine of not more than one hundred dollars
12 or be imprisoned in the county jail not exceeding thirty days,
13 or by both fine and imprisonment, and it is hereby made the
14 duty of the prosecuting attorney of the county in which the viola-
15 tion takes place to prosecute the action.

House Bill No. 336

(House Bill No. 336—Mr. Hersman, of Roane.)

AN ACT to revise, amend and re-enact section twenty-eight of chapter
thirty-nine of the code of West Virginia, authorizing county
courts to aid county farm bureaus in the employment of county
agricultural agents.

Be it enacted by the Legislature of West Virginia:

That section twenty-eight of chapter thirty-nine of the code of
West Virginia be revised, amended and re-enacted so as to read as
follows:

Section 28. Whenever a number of farmers, not fewer
2 than one hundred and fifty, file with the county court of
3 the county a memorandum of understanding with the agricultural
4 extension division of the college of agriculture, West Virginia
5 University, whereby the extension division of the college of agri-
6 culture agrees to provide part of the salary of county agent or
7 agents to the end of the next succeeding fiscal year, then the
8 county court of such county is hereby authorized to, and it shall

9 levy for or appropriate from the general fund an amount not to
10 exceed one and one-half cents on the one hundred dollars assessed
11 valuation. The money so appropriated shall be used for the pay-
12 ment of part of the salary and expenses of person or persons to
13 encourage demonstrations of improved methods on the farm and
14 in the home and to give free advice and practical instruction in
15 agriculture and home economics in such county, in co-operation
16 with and under the supervision of the said agricultural extension
17 division. Such person or persons as employed shall be nominated
18 by the agricultural extension division of the West Vir-
19 ginia University. All moneys so appropriated shall be ex-
20 pended upon orders of the county court as other county funds
21 are expended, and a duplicate of all salary vouchers and expense
22 accounts shall be filed with the said agricultural extension divi-
23 sion in such form as will comply with the provisions of the act
24 of Congress approved May eighth, one thousand nine hundred and
25 fourteen, known as the "Smith-Lever act"; but no part of any
26 money so appropriated shall be used to compensate any representa-
27 tive of the West Virginia University or any other person except
28 the persons who may be employed under this act. It shall be the
29 duty of the agricultural extension division to co-operate with
30 each county court appropriating money under this act. Any
31 county court may co-operate with the county court of one or more
32 adjoining counties in carrying out the purposes of this act.

House Bill No. 346

(House Bill No. 346—Mr. Downs.)

AN ACT to provide for the formation of co-operative agricultural and horticultural associations, instituted for the purpose of mutual help, and not having capital stock or conducted for profit, and for other purposes.

Be it enacted by the Legislature of West Virginia:

That there be established and formed, co-operative agricultural and horticultural associations for the purpose of mutual help and not having capital stock or conducted for profit, in the manner hereinafter set forth:

Section 1. In this act, unless the context otherwise require,
2 "association" means an association formed under this act; "mem-
3 ber" means a member of an association; "person" includes a cor-
4 poration or partnership or two or more persons having joint or
5 common interest; words used import the singular or the plural as
6 the case may demand.

Sec. 2. Co-operative agricultural or horticultural associations,
2 instituted for the purpose of mutual help, and not having capi-
3 tal stock or conducted for profit, may be formed, under the
4 provisions of this act, by any number of persons, not less than
5 five, engaged in agriculture or horticulture.

Sec. 3. An association may, as agent for its members or any
2 of them, perform for them, services connected with the production,
3 preservation, drying, canning, storing, handling, utilization,
4 marketing or sale of agricultural and horticultural products pro-
5 duced by them, and for the agricultural or horticultural purposes
6 of such members, may perform for them services connected with
7 the purchase or hiring for, or use by, them, of supplies, including
8 live stock, machinery and equipment, and the hiring of labor,
9 or any one or more of the kinds of service specified in this sec-
10 tion.

Sec. 4. The persons uniting to form an association shall en-
2 ter into articles of association in writing, which shall state—

3 (a) The name of the association, which shall include the
4 word "co-operative," which name shall not be the same as that
5 of any other association or corporation formed or doing business
6 in this state or so similar to such name as to be likely to be
7 confused therewith;

8 (b) The class of service to be performed for its members by
9 the association, which services shall be among those mentioned
10 in section three of this act;

11 (c) The place where its principal operations are to be carried
12 on, which shall be a place within this state;

13 (d) The term for which such association is to exist;

14 (e) Any other provisions, not inconsistent with law, which
15 the association may see fit to adopt, governing the regulation and
16 conduct of its affairs.

17 The articles of association shall bear the signatures and post
18 office addresses of the persons uniting to form the association,
19 and shall be acknowledged by not less than five of such persons,
20 before an officer duly authorized to administer oaths in this

21 state, which acknowledgment shall be authenticated by the seal of
22 such officer. The articles of association, so acknowledged and
23 authenticated, together with a true copy thereof, shall be trans-
24 mitted to the secretary of state, who shall, if in his opinion
25 the provisions of law applicable thereto have been complied with;
26 file and record the same. He shall issue his certificate showing
27 such filing.

Sec. 5. The articles of association may, pursuant to an affirma-
2 tive vote of two-thirds of all of the members, be amended at any
3 regular meeting, or at any special meeting called for the purpose
4 due notice of the time, place, and object of which regular or special
5 meeting shall have been given as prescribed in the by-laws. Copies
6 of such amendment, signed and acknowledged by not less than three
7 directors, shall be filed and recorded in the manner and in the re-
8 spective offices, prescribed in section four for the articles of associa-
9 tion.

Sec. 6. Upon the filing by the clerk of the county court of a
2 copy of the articles of association, transmitted to him by the sec-
3 retary of state, the association shall have power, within the limita-
4 tions of this act:

5 (a) To adopt and use a common seal and to alter it at pleas-
6 ure;

7 (b) To have succession for the term prescribed in its articles
8 of association, unless sooner dissolved by operation of law or under
9 the provisions of this act;

10 (c) To perform for members the services described in its
11 articles of association;

12 (d) To make contracts necessary in the conduct of its opera-
13 tions;

14 (e) To purchase, lease, or receive by gift, bequest, or devise,
15 and to hold personal and real property necessary in the conduct of
16 its operations, and to dispose of the same;

17 (f) To borrow money necessary in the conduct of its operations,
18 to issue notes and bonds therefor, and to give security, in the
19 form of mortgage or otherwise, for the repayment thereof;

20 (g) To sue and be sued by the name specified in its articles
21 of association, as fully as natural persons;

22 (h) To adopt, and alter or amend when necessary, by-laws not
23 inconsistent with law, regulating its conduct and management;

24 (i) To elect a board of directors, which shall have power to

25 appoint a president, vice-president, secretary, treasurer, and other
26 officers, and agents and employees deemed necessary, to prescribe
27 their duties not inconsistent with the by-laws, to require bonds
28 of them and fix the penalty thereof, and to dismiss at pleasure
29 any agent or employee.

30 (j) To co-operate, through membership or otherwise, with any
31 other association not conducted for profit, whether formed under
32 this act or otherwise, for the purpose of promoting any enterprise,
33 which may be lawfully carried on, relating to the respective author-
34 ized operation of such associations, and which enterprise does not
35 relate to or involve fixing wages, limiting production, destroying
36 products, or fixing the selling price, or delegating the control, of
37 the products of the members of either association;

38 (k) To foster membership in the association by advertising or
39 by educational or other lawful means.

40 (l) To exercise such incidental powers as shall be necessary
41 in the conduct of its operations.

Sec. 7. Any association may admit as members, under terms
2 and conditions prescribed in its by-laws, persons engaged in agri-
3 culture or horticulture. Any member shall forfeit its membership
4 upon proof being made to the association that he has ceased to be
5 engaged in agriculture or horticulture. For the purpose of this
6 act a member, other than an individual, shall be represented by an
7 individual associate, officer, or partner thereof, duly authorized.

Sec. 8. Every association shall issue a certificate of member-
2 ship to each member. Such certificate of membership shall not
3 be transferable, and no person who may acquire same by operation
4 of law, or otherwise than as may be prescribed in this act, and the
5 articles of association and by-laws of the association, shall be en-
6 titled to become a member by virtue of such certificate.

Sec. 9. Each member shall be entitled to one vote only, and
2 no vote by proxy shall be permitted. Except in case of the removal
3 of a director or officer, as provided in section fifteen of this act,
4 absent members may, under rules prescribed in the by-laws, be
5 permitted to vote on specific questions by ballots transmitted to
6 the secretary, or other proper officer of the association, by regis-
7 tered mail; and such ballots to be counted only in the meeting at
8 the time at which such vote is taken.

Sec. 10. Each member shall be responsible, as his original
2 liability, for his per capita share of all contracts, debts, and

3 engagements of the association existing at the time he becomes a
4 member and created during his membership; but if any member's
5 share of such contracts, debts and engagements shall prove to be
6 uncollectible, each remaining member shall be responsible, as his
7 additional liability, for such unpaid share or part thereof to an
8 amount equal to such remaining member's original liability or
9 to such further amount as may be prescribed in the articles of
10 association. No member shall be liable to the association for any
11 contract, debt or engagement arising out of any specific trans-
12 action between the association and any member or members there-
13 of in which he does not participate unless and until the associa-
14 tion shall have exhausted every legal recourse and failed to en-
15 force satisfaction from the member or members participating
16 therein. In all cases any member who, voluntarily or otherwise,
17 contributes to the payment of the debt or obligation of another
18 member or other members shall have an action, several or joint,
19 as he may elect, against such defaulting member or members
20 for reimbursement. Any association may, in its articles of asso-
21 ciation, limit the amount of indebtedness or obligation which may
22 be incurred by or on behalf of the association, and no member
23 shall be liable for any debt or obligation in excess of the terms
24 of such limitations.

Sec. 11. The association, as agent for a non-member, may
2 buy farm supplies for him, sell his agricultural or horticultural
3 products and charge for the use of community equipment, and, as
4 a condition of its contract with such non-member, may impose
5 upon him any liability for the contracts, debts and engagements
6 of the association which does not exceed the liability of a mem-
7 ber; but in no case shall it charge a non-member for such services
8 more than the actual cost thereof, including the pro rata part of
9 all overhead expenses.

Sec. 12. Within forty days after the filing a copy of the arti-
2 cles of association in the office of the clerk of the county court.
3 a call, signed by not less than a majority of the directors, shall
4 be issued for a meeting of the members. At such meeting, or
5 any adjourned session or sessions thereof by-laws regulating the
6 conduct and management of the association, shall be adopted.
7 Such by-laws shall, within the limitations of this act, prescribe:
8 (a) The time, place, and manner of calling and holding meet-
9 ing;

10 (b) The number and qualifications of members, the conditions
11 under which membership shall be granted and terminated, rules
12 governing the exercises of the privileges of membership and the
13 issuance, transfer and cancellation of membership certificates, and
14 the manner of ascertaining the interests of members in the as-
15 sets, if any, in the possession of the association.

16 (c) The number of the directors, the time and manner of
17 their election and removal, their powers and duties, the number
18 not less than a majority, necessary to the exercise of their powers,
19 and their compensation, if any;

20 (d) The officers, their terms of office, the time and manner of
21 their appointment and removal, their powers and duties, and their
22 compensation, if any;

23 (e) The manner of fixing and collecting fees, dues and other
24 assessments or charges for services to its members.

25 (f) Any other provisions proper and necessary to carry out
26 the purposes for which the association was formed.

Sec. 13. The by-laws may require the members to sell all or
2 any part of their specifically enumerated agricultural and horti-
3 cultural products, and to buy all or any part of their specifically
4 enumerated farm supplies, exclusively through the association;
5 but, in such case, shall specify a reasonable period, in each year,
6 during which any member, by giving to the association the notice
7 prescribed in the by-laws may withdraw and be released, from
8 his obligation to employ the services of the association in respect
9 to such products and supplies. The by-laws may fix as liquidated
10 damages, specific, reasonable sums, in amounts fairly related to
11 the actual damages ordinarily suffered in like circumstances, to
12 be paid to the association, to reimburse it for any damage which
13 it or the members may sustain by the failure of any member to
14 perform any obligation to the association, under the articles of
15 association, the by-laws, or any contract with the association, and
16 any such provision shall be valid and enforceable in the courts
17 of this state.

Sec. 14. The board of directors of every association shall con-
2 sist of not less than five members, who shall be divided, as nearly
3 equally as practicable, into three classes. At the first regular
4 meeting of the association, a quorum as prescribed by the by-
5 laws being present, the members shall elect from among them-
6 selves directors of the first class for a term of one year, directors

7 of the second class for a term of two years, and directors of the
8 third class for a term of three years. At the expiration of the
9 terms of the directors so elected their successors shall be elected
10 in like manner, for terms of three years. Directors shall hold office
11 until their successors shall have been elected and qualified and
12 shall enter upon the discharge of their duties. Vacancies shall be
13 filled, for the unexpired terms, at any regular meeting or at
14 any special meeting called for the purpose, in the manner pro-
15 vided for the original election of directors. The board of direc-
16 tors shall manage the affairs of the association and shall perform
17 the duties specifically imposed upon the board by this act.

Sec. 15. Any director or officer of an association may, for
2 cause, at any regular meeting or at any special meeting called for
3 the purpose, at which a majority of the members shall be present,
4 be removed from office by vote of not less than two-thirds of the
5 members present. Reasonable notice of the time, place and ob-
6 ject of any such meeting shall be given, in the manner pre-
7 scribe in the by-laws, to the members, and to the director or offi-
8 cer against whom charges are to be presented. Such director
9 or officer shall, at the same time, be informed in writing of such
10 charges, and at such meeting shall have an opportunity to be
11 heard in person, by counsel, and by witnesses, in regard thereto.

Sec. 16. The officers of every association shall include a presi-
2 dent, vice-president, secretary and treasurer, who shall be ap-
3 pointed annually by the board of directors. The president and
4 vice-president shall be appointed from among the directors. The
5 secretary and treasurer may be non-members. The offices of sec-
6 retary and treasurer may be combined and one individual ap-
7 pointed thereto. Vacancies shall be filled for the unexpired terms
8 by the board of directors in the manner provided for the original
9 appointment of officers. The board of directors shall require the
10 treasurer and all other officers, agents and employees charged by
11 the association with responsibility for the custody of any of its
12 funds or property to give bond with sufficient security for the
13 faithful performance of their duties as such.

Sec. 17. An association may provide for the payment of ex-
2 penses, necessary in the performance of its services to its mem-
3 bers, by the creation of a working fund or otherwise, through
4 fees, dues, assessments, or charges for the services, to be fixed
5 and collected in such manner as may be prescribed in the by-

6 laws. Such fees, dues, assessments, or charges shall be limited
7 to the amounts necessary to meet expenses already incurred, or
8 reasonably estimated as essential to be incurred, by the associa-
9 tion in conducting its operations. Whenever any association shall
10 find that it has accumulated funds in excess of those necessary to
11 meet expenses already incurred, or reasonably estimated as es-
12 sential to be incurred, by it in conducting its operations, it shall
13 return such excess to, or deduct it from future fees, dues, assess-
14 ments, or charges of, the members who contributed to such ex-
15 cess, in the proportions of their respective contribution.

Sec. 18. Every association shall, from time to time, appoint
2 a committee of three members, who shall not be directors, officers,
3 agents, or employees of the association, which committee shall,
4 at least once in each quarter of each fiscal or business year of such
5 association, make an examination of its records and property, and
6 shall within one month after such examination, report in writing
7 the results thereof to the association. Immediately after the close
8 of each fiscal or business year of the association, a complete audit
9 of its operations shall be made for the fiscal or business year. A
10 written report of the audit, including statements of services
11 rendered by the association, the balance sheets, receipts and dis-
12 bursements, assets and liabilities, members admitted and with-
13 drawn, total numbers of members, and other proper information,
14 shall be submitted to the members at their next regular meet-
15 ing. The association may file copies of the report of the audit
16 with the secretary of state, and the commissioner of agriculture
17 within three months after the close of the fiscal or business year
18 for which made. The secretary of state shall, upon request, fur-
19 nish a copy of such report to the United States department of
20 agriculture. No person shall, without the consent of the associa-
21 tion, except in obedience to judicial process, make or permit any
22 disclosure whereby any information contained in said report may
23 be identified as having been furnished by said association. Any
24 person violating or failing to comply with the provision of this
25 section shall be deemed guilty of a misdemeanor and upon con-
26 viction thereof, shall be punished by a fine of not more than five
27 hundred dollars.

House Bill No. 160

(House Bill No. 160—Mr. Nicely.)

AN ACT providing state aid for the encouragement of agricultural fairs, and making appropriations therefor.

Be it enacted by the Legislature of West Virginia:

That agricultural fairs be encouraged and aided in the manner hereinafter provided, as follows:

Section 1. For the purpose of encouraging agriculture, any incorporated agricultural association or any unincorporated association which has conducted fairs for three successive years prior to the passage of this act, and which upon becoming properly incorporated, and conforming to the requirements of this act, shall receive from the state of West Virginia, an annual sum not exceeding ten thousand dollars, equal to the amount paid by such association as premiums for exhibits at its annual exhibition, exclusive of premiums, on speed contests and exhibitions.

Sec. 2. In case there is more than one association holding annual exhibitions in a county, such associations shall be entitled to receive from the state a sum not exceeding in the aggregate the sum of ten thousand dollars, to be apportioned among such associations according to the amount of premiums paid for exhibits at the last exhibition of such associations exclusive of premiums paid for speed contests. No association shall receive from the state a greater sum than that paid by the association as premiums on exhibitions exclusive of premiums paid for speed contests.

Sec. 3. No incorporated agricultural association shall be entitled to the benefits of this act unless it shall hold an annual exhibition in the interest of stock raising, grain, poultry, handicraft, dairy products, fruit and vegetable growing, and the like. Such exhibitions shall continue at least three successive days and shall pay premiums on exhibitions aforesaid.

Sec. 4. Agricultural associations hereafter incorporated shall have the benefits of this act only after they shall have held three consecutive annual exhibitions of the character by this act designated, but agricultural associations purchasing or leasing the

5 grounds and buildings of an association entitled to the benefits
6 of this act, shall also be entitled to such benefits.

Sec. 5. Any agricultural association claiming the benefits of
2 this act shall, each year, file with the state department of agricul-
3 ture a copy of its annual premium list, not later than one month
4 before the opening of its exhibition, and the said department of
5 agriculture shall have the right to inspect and supervise all ex-
6 hibits of said exhibition.

Sec. 6. On or before the fifteenth day of November in each
2 year an association applying for the benefits of this act shall file
3 with the secretary of state a statement sworn to by its president
4 and attested to by its secretary, with its corporate seal attached,
5 setting forth the name of the corporation, the time and place of
6 the exhibition, and the amount of premiums actually paid, giv-
7 ing the names and addresses of the persons to whom such prem-
8 iums were paid, and in what class, kind, and department.

Sec. 7. Payments to incorporated agricultural associations un-
2 der the provisions of this act shall be made out of the state
3 treasury on or before the first day of December of the year in
4 which the exhibition is held, and after the statement provided
5 for in section six has been filed.

Sec. 8. No incorporated agricultural association which is
2 the recipient of state aid under this act shall operate or permit
3 to be operated in conjunction with the fair any gambling device
4 or any indecent or immoral shows. Any association violating
5 the provisions of this section thereby forfeits all right to state
6 aid for a period of three years.

7 This, however, shall not be so construed as to prevent horse
8 racing or horse shows, at any fair receiving state aid.

House Bill No. 434

(House Bill No. 434—Mr. Hiner.)

AN ACT to amend and re-enact an act of the legislature passed Feb-
ruary seventh, one thousand nine hundred and seventeen, en-
titled an act for the control and eradication of dangerously con-
tagious and infectious diseases among honey bees in West Vir-
ginia, and providing for their inspection and eradication.

Be it enacted by the Legislature of West Virginia:

That the acts of the legislature passed February seventh, one thousand nine hundred and seventeen, reading, "An act for the control and eradication of dangerously contagious and infectious diseases among honey bees, and providing for their inspection," be amended and re-enacted so as to read as follows:

Section 1. (a) The word "commissioner" as used in this act shall mean the state commissioner of agriculture.

(b) The word "entomologist" as used in this act shall mean the state entomologist, who is in charge of the enforcement of law for the control and eradication of crop pest and plant diseases.

(c) The word "inspector" as used in this act shall mean the commissioner of agriculture, the state entomologist, or any person duly authorized and employed to carry out any of the provisions of this act.

Sec. 2. The entomologist or other person duly authorized by the commissioner shall, so far as practicable, upon information, examine all reported apiaries and other apiaries in that locality not reported, to ascertain the existence of any of the aforesaid diseases affecting bees, and if satisfied of the existence of any such diseases, he shall give the owner or person in charge of the diseased apiary full instructions how to treat them. The entomologist or assistant shall visit all said diseased apiaries a second time after a period of ten days, and if necessary, burn all colonies of bees that he may find not properly treated and cured of such disease, together with all honey and appliances which would spread disease.

Sec. 3. If the owner of an apiary, honey or appliances wherein diseases exist, shall sell, barter or give away or remove, without the consent of the inspector, any such diseased or infected bees (be they queens, workers, or colonies) honey or appliances, or expose other bees to the danger of such diseases, or fail to notify the inspector of the existence of such diseases, said owner shall be guilty of a misdemeanor and upon conviction before a justice of the peace, shall, in the discretion of the court, be liable to a fine not to exceed one hundred dollars.

Sec. 3-a. It shall be unlawful to sell honey in this state to which is not attached a signed statement or certificate of the producer that the apiary from which this honey was drawn was free from contagious and infectious bee diseases and it shall be unlawful to ship honey or bees from another state into this state to

6 which is not attached a certificate of the inspector or duly author-
7 ized officer of the state from which the shipment is made, certify-
8 ing that said bees are free from contagious and infectious disease
9 or that the honey so shipped was drawn from apiaries free from
10 disease, and it shall be unlawful for any transportation company
11 to convey such bees or honey unaccompanied by the certificate
12 as aforesaid.

Sec. 4. For the enforcement of the provisions of this act the
2 commissioner, the entomologist, the inspector, or other duly au-
3 thorized agents, shall have access, ingress and egress, to all aparies
4 or places where bees are kept, and any person who shall resist or
5 hinder in any way the said officers in the discharge of their duties
6 under the provisions of this act, shall be guilty of a misdemeanor,
7 and upon conviction thereof, shall be liable to a fine not to ex-
8 ceed one hundred dollars in the discretion of the court.

9 The commissioner of agriculture is hereby authorized to make
10 and enforce any regulations in his judgment necessary to carry out
11 the full spirit of this act.

Sec. 5. It shall be the duty of any person in West Virginia
2 engaged in the raising of queen bees for sale to boil for at least
3 thirty minutes the honey used in the mailing cages for the trans-
4 portation of honey bees. Any such person engaged in the raising
5 and selling of queen bees shall have his queen raising apiary in-
6 spected at least twice during the summer season by the entomolo-
7 gist or any other duly authorized person, and upon the discovery
8 of the existence of any of said diseases injurious to bees in their
9 egg, larval, pupal or adult stages, such person shall at once cease
10 to ship queen bees from such apiary until the inspector shall de-
11 clare the same to be free from said diseases.

12 Any person engaged in raising queen bees for sale who shall vio-
13 late the provisions of this section shall be guilty of a misdemeanor
14 and subject to a fine of not more than one hundred dollars in the
15 discretion of the court.

House Bill No. 446

(House Bill No. 446—Mr. Lyttleton.)

AN ACT to amend and re-enact section fifteen of chapter forty-eight-a
of the code of one thousand nine hundred and sixteen, as amend-

ed and re-enacted by chapter nine of the acts of the legislature of one thousand nine hundred and nineteen, relating to the salary of the state fire marshal and his assistants.

Be it enacted by the Legislature of West Virginia:

That section fifteen of chapter forty-eight-a of the code, as amended by chapter nine of the acts of the legislature of one thousand nine hundred and nineteen, be, and the same is, hereby amended and re-enacted so as to read as follows:

Section 15. The state fire marshal shall receive an annual salary of four thousand dollars, and the deputy fire marshal shall receive an annual salary of two thousand five hundred dollars. The state fire marshal shall be authorized to employ stenographers and clerks, and incur such other expenses as may be necessary in the performance of the duties of his office, including the necessary traveling expenses, not to exceed, including salary, such sums as may be paid into the state treasury in the manner hereinafter provided, or by appropriation or contribution.

House Bill No. 130

(House Bill No. 130—Mr. Sanders.)

AN ACT to amend and re-enact sections twelve and fourteen of chapter fifty-four-c of the code of West Virginia, relating to surety companies.

Be it enacted by the Legislature of West Virginia:

That sections twelve and fourteen of chapter fifty-four-c of the code of West Virginia be amended and re-enacted so as to read as follows:

Section 12. That no company incorporated under this act shall exercise any such power or right as is mentioned in the first, second, third, fourth, fifth, sixth, seventh, eighth, tenth, eleventh and twelfth clauses of section one hereof until there has been filed, with the secretary of state, a duly authenticated certificate showing the capital of such company to be at least six hundred thousand dollars, fully paid and unimpaired. And such duly authenticated certificate shall be filed with the secretary of state in the month of January of every year thereafter. Every company exercising rights or powers such as are mentioned in the

11 first, second, third, fourth, fifth, sixth, seventh, eighth, tenth,
12 eleventh and twelfth clauses of section one hereof shall before com-
13 mencing business and thereafter within the first ten days of each
14 of the months of January and July of each year, file with the
15 clerk of the county court of each county in which it proposes to
16 transact or is transacting business, a statement certified by the
17 secretary, treasurer or other officer of such corporation, under oath
18 or affirmation, showing the financial condition of the company on
19 the first day of the month in which such statement is filed; which
20 statement shall show all the resources and liabilities of the com-
21 pany and the nature of its investments, and such statement shall
22 be made a part of the public records of each county, and be record-
23 ed in a well bound book to be kept for such purposes, and to be
24 called "surety company statements;" for which filing and record-
25 ing the clerk of the county court shall be allowed a fee of fifty
26 cents to be paid by the company making such statement. Any
27 officer or employee of any such company who shall knowingly make
28 any fraudulent, false or misleading statement, under the pro-
29 visions of this act, shall be guilty of a misdemeanor and shall,
30 upon conviction thereof, be punished by a fine not less than five
31-32 hundred dollars and not more than twenty-five hundred dollars.
33 *Provided*, that no company that is now qualified to do business
34 in this state and has heretofore made a deposit with the state
35 auditor under the former provisions of this act, shall withdraw
36 the same until the auditor of the state shall be satisfied that all
37 claims existing against such company on liabilities where notice
38 has already been given to the surety company of liability or
39 judgment entered against it on any liability existing against
40 such company or its deposit, has been fully adjusted and settled
41 with all claimants or assignees thereof.

Sec. 14. That any company exercising or attempting to exer-
2 cise any of the rights or powers mentioned in the first, second,
3 third, fourth, fifth, sixth, seventh, eighth, tenth, eleventh and
4 twelfth clauses of section one hereof without having fully com-
5 plied with the provisions of section four hereof by filing certi-
6 ficate required with the secretary of state or by making and filing
7 the statements required to be made and filed with the clerks of
8 the county courts, or any company violating the provisions of sec-
9 tion five hereof, by accepting money on deposit, or acting in a
10 fiduciary capacity, shall be guilty of a misdemeanor, and, upon
11 conviction thereof, shall be fined not less than five hundred dol-

12 lars; and in such cases, whether or not there be a prosecution for
13 the misdemeanor, the auditor, upon being satisfied of the facts,
14 shall publish by at least two insertions, at the expense of such com-
15 pany, in a paper of general circulation in each of the cities of
16 Wheeling, Parkersburg, Huntington, Charleston, Clarksburg,
17 Bluefield, Sistersville and Martinsville, West Virginia, an ad-
18 vertisement of the fact that such company is not entitled to exer-
19 cise the powers and rights mentioned in section one, or is trans-
20 acting, or attempting to transact, a banking or other busi-
21 ness in violation of the provisions of section five, as the case may
22 be.

House Bill No. 295

(House Bill No. 295—Mr. Post.)

AN ACT to provide for the licensing of non-resident insurance brokers.

Be it enacted by the Legislature of West Virginia:

Section 1. The insurance commissioner may, upon receipt
2 of ten dollars, except as hereinafter provided, issued to any suit-
3 able person, resident in any other state, a license to act as an
4 insurance broker to negotiate contracts of insurance or rein-
5 surance or place risks or effect insurance or reinsurance with the
6 authorized agent of any qualified domestic insurance company, or
7 with the authorized agent in this state of any foreign insurance
8 company duly admitted to do business in this state, and not
9 otherwise, upon the following conditions:

10 The applicant for such a license shall file with the insurance
11 commissioner an application which shall be in writing upon a
12 form to be provided by the insurance commissioner, and shall
13 be executed by the applicant under oath and kept on file by the
14 insurance commissioner. Such application shall state the name,
15 age, residence and occupation of the applicant at the time of mak-
16 ing application, his occupation for five years next preceding the
17 date of filing the application and shall state that the applicant
18 intends to hold himself out and carry on business in good faith
19 as an insurance broker and shall give such other information as
20 the commissioner may require. The application shall be accom-
21 panied by a statement upon a blank furnished by the insurance

22 commissioner as to the trustworthiness and competency of the
23 applicant, signed by at least three reputable citizens of this state.
24 If the insurance commissioner is satisfied that the applicant is
25 trustworthy and competent and intends to hold himself out and
26 carry on business in good faith as an insurance broker, he may
27 issue to him the license applied for. The commissioner may at
28 any time after the granting of a broker's license, for cause shown
29 and after a hearing determine that the licensee has not complied
30 with the insurance laws or is not trustworthy or competent, or is
31 not holding himself out and actually carrying on business as an
32 insurance broker, or is not a suitable person to act as such broker,
33 or has placed insurance on risks in this state in companies or other
34 insurers not authorized to transact business in this state, and he
35 shall thereupon revoke the license of such broker and notify him
36 that the license has been revoked. Such broker's license shall
37 expire on the last day of February after its issue unless sooner
38 revoked by the insurance commissioner for cause, as above pro-
39 vided. The insurance commissioner shall publish a notice of the
40 revocation of a broker's license in such manner as he deems proper
41 for the protection of the public. Broker's licenses issued on appli-
42 cation, as herein provided, may in the discretion of the insurance
43 commissioner, be renewed upon the payment of the proper fees
44 without his requiring anew the details required in the original
45 application.

Sec. 2. Any insurance agent who shall accept any contract
2 of insurance from any non-resident of West Virginia not a duly
3 licensed broker, as provided in this act, and who shall pay to said
4 non-resident any commission thereon or accept said contract at
5 lower than the published rate, shall have his certificate of authority
6 revoked for the period of one year.

Sec. 3. When by the laws of any other state, district, territory
2 or nation, any tax, fines, penalties, license fees or other obliga-
3 tions or prohibitions are imposed on agents or brokers residents
4 of this state, the same fines, penalties, license fees or other obli-
5 gations or prohibitions shall be imposed upon agents or brokers of
6 such other state, district, territory or nation doing business or
7 seeking to do business in this state, excepting that the minimum
8 broker's license fee shall be ten dollars; and *provided* that noth-
9 ing in this act shall authorize the licensing of non-resident insur-
10 ance agents in contravention of the resident agent's law.

House Bill No. 296

(House Bill No. 296—Mr. Post.)

AN ACT authorizing the valuation of bonds and other securities held by life insurance companies, assessment life associations, and fraternal beneficiary societies, by the amortization method.

Be it enacted by the Legislature of West Virginia:

Section 1. All bonds or other evidences of debt having a fixed term and rate, held by any life insurance company, assessment life association or fraternal beneficiary societies, authorized to do business in this state, may, if amply secured and not in default as to principal and interest, be valued as follows: If purchased at par, at the par value; if purchased above par or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made; *provided*, that the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase; and, *provided, further*, that the insurance commissioner shall have full discretion in determining the method of calculating values according to the foregoing rule.

House Bill No. 491

(House Bill No. 491—Mr. Dunfee, by request.)

AN ACT to amend and re-enact sections fifteen-c and seventy-three of chapter thirty-four of Barnes' code of West Virginia.

Be it enacted by the Legislature of West Virginia:

That sections fifteen-c and seventy-three of chapter thirty-four of Barnes' code of West Virginia be amended and re-enacted to read as follows:

Section 15-c. Any duly licensed insurance agent for companies other than life may, with the approval of such companies, apply to the insurance commissioner for licenses for not to exceed two solicitors. If, after due investigation, the insurance commissioner finds the person or persons for whom such license is applied, competent and trustworthy and resident in this state, he shall issue such solicitors' licenses which shall be subject to the

8 same law as to revocation, expiration and renewal as the agent's
9 license, and the fee for which shall be one dollar for each license.
10 Each solicitor shall solicit and receive applications for insur-
11 ance for the appointing agent only, and he shall report all busi-
12 ness through him. The expiration, cancellation, or revocation of
13 the license of the appointing agent shall automatically cancel the
14 solicitor's license, and the appointing agent may cancel his license
15 at any time by request to the insurance commissioner.
16 In no case shall a solicitor's license be requested when the prin-
17 cipal use of such license is to effect insurance on the property,
18 person or liability of the solicitor, or to circumvent the enforce-
19 ment of the anti-rebate act.

Sec. 73. Every foreign insurance company doing business in
2 this state shall pay the said commissioner an annual license tax
3 based on the amount of the business done in this state, which
4 license tax shall be paid into the state treasury for the benefit of
5 the state fund. The annual license tax of every such company
6 shall be a sum equal to two per cent of the gross premiums re-
7 ceived by it on the business written or renewed in this state, less
8 premiums returnable for cancellation, and including any so-
9 called dividends on participating life insurance policies actually
10 applied in reduction of premiums.

House Bill No. 363

(House Bill No. 363—Mr. Barnes.)

AN ACT to establish a state training school for mental defectives, and
to amend and re-enact sections four, six, eight, nine, ten, eleven,
twelve, thirteen, nineteen, twenty, twenty-three, twenty-seven,
twenty-eight, twenty-nine, thirty-three and thirty-four, of chap-
ter fifty-eight of the code of one thousand nine hundred and six-
teen.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby established for the treatment and
2 training of mental defectives a state institution to be known as
3 the "West Virginia Training School." It shall belong to that class
4 of institutions mentioned in section three, chapter fifteen-m of the
5 code, and shall be managed and controlled as provided in said chap-

6 ter, all the provisions whereof shall be applicable to said school
7 except as in this act provided. The chief executive officer thereof
8 shall be a superintendent, who shall be a legally qualified physician,
9 scientifically trained in mental medicine and of not less than five
10 years' experience in the treatment and care of insane persons and
11 mental defectives, and who shall be appointed by the governor
12 with the advice and consent of the senate.

Sec. 2. As soon as practicable hereafter the state board of
2 control shall select and acquire a suitable site and adequate lands,
3 construct the necessary buildings and purchase the necessary
4 equipment for said school. The state board of education
5 shall have general control and management of the educational
6 affairs of said school when established and shall employ profes-
7 sors and teachers for said school and shall fix a yearly and monthly
8 salary to be paid to each person so employed, to be approved by
9 the state board of control, according to law.

Sec. 3. There shall be admitted to said school any person with
2 mental defectiveness from birth or an early age, so pronounced
3 that he or she is unable to care for himself or herself and manage
4 his or her affairs with ordinary prudence, and who because of
5 mental defect is a menace to the happiness and welfare of himself
6 or herself or of others in the community, and therefore requires
7 care, training or control for the protection of himself or herself
8 or of others, and yet who is not insane. This type of persons,
9 commonly classed as feeble-minded, including idiots, imbeciles
10 and morons, shall be known and designated as mental defectives
11 for the purposes of this act. Should the school at any time not
12 be able to accommodate all persons of such class offered for ad-
13 mission, preference in admission shall be given to children and
14 women of child-bearing age.

Sec. 4. Mental defectives shall be admitted to said school in
2 the following manner:

3 (a) The county mental hygiene commission shall have juris-
4 diction of all applicants for commitment of persons to said school.
5 Any relative of a person affected may make application, by com-
6 plaint under oath, to have the person adjudged a mental defective;
7 but when the relatives of a mentally defective person either neg-
8 lect or refuse to place said person in said school, or in some
9 private institution of a like nature, and shall permit him or her
10 to go at large, then any reputable citizen of the county may, by

11 complaint under oath, make application to the mental hygiene
12 commission for such commitment; and said complaint shall not
13 be subject to exception for defects of form. When application is
14 filed for commitment of an alleged mentally defective person,
15 the commission shall appoint two physicians to examine such
16 person and determine whether or not he is mentally defective.
17 Both of these physicians shall be selected as being the most ca-
18 pable physicians available because of knowledge of and training
19 in mental medicine, and neither of them shall be related in
20 any wise to the person sought to be committed.

21 (b) Where any court of the state has on trial before it a
22 prisoner for an offense, and the judge shall have cause to believe
23 that the prisoner is mentally defective, he may appoint two phy-
24 sicians as aforesaid to examine the prisoner, to ascertain whether
25 or not he is in reality mentally defective; and if said physicians
26 shall pronounce said prisoner to be mentally defective, the judge
27 may commit him to said school.

28 In either of the cases named above, the physicians making the
29 examination shall be required to make such examination com-
30 plete and thorough, both mentally and physically, and shall be
31 required to make to the commission or court appointing them
32 certification as to their findings in the matter. This certifica-
33 tion shall be in the form prescribed by the state board of control,
34 and shall be made in duplicate, one copy of the same being sent
35 with the patient when committed to the school, and the other
36 copy being filed with the commission or court committing such
37 person; and it shall be the duty of the superintendent of said
38 school to refuse admission to any person unless he or she shall
39 present a copy of said certification.

40 The commission or court, by order, shall designate some rep-
41 utable person to convey such mentally defective person to the
42 school and to protect such person until such time as he or she
43 can be conveyed to the institution. In the case of a female be-
44 ing taken to the school, a female attendant must be provided.

45 All expenses connected with the commitment of persons here-
46 under and conveying of such mentally defective person to the
47 school shall be borne by the county in which said person has legal
48 settlement.

49 (c) The relative, guardian or friend of any inmate of any
50 state institution shall have the right and power to apply to the

51 mental hygiene commission for an order directing an examination
52 of said inmate, in the manner aforesaid, to determine whether
53 or not he or she is mentally defective, then the said commission
54 shall have the right to remove him or her from the institution
55 in which said inmate may be, and commit him or her to the
56 "West Virginia Training School"; *provided*, that this clause
57 shall apply only to those who might in the first instance have
58 been committed to said school.

Sec. 5. The training and treatment of persons admitted to
2 the school shall be along such educational, medical and indus-
3 trial lines as have proved most effective in approved institu-
4 tions for mental defectives. The medical staff of such institu-
5 tion, and the medical staffs of Weston, Spencer and Huntington
6 state hospitals, are hereby authorized to administer such medical
7 treatment and perform such surgical operations for the inmates
8 therein as may be necessary and expedient for the cure and pre-
9 vention of mental defectiveness or disease.

Sec. 6. When, in the judgment of the superintendent of the
2 school, a patient or inmate thereof shall, under the treatment and
3 training given therein, improve mentally and physically to such
4 an extent as no longer to constitute a menace to himself or
5 others, the superintendent shall have the right and it shall be
6 his duty to parole such person, under such rules and regulations
7 as the board of control may prescribe.

Sec. 7. That sections four, six, eight, nine, ten, eleven, twelve,
2 thirteen, nineteen, twenty, twenty-three, twenty-seven, twenty-eight,
3 twenty-nine, thirty-three and thirty-four of chapter fifty-eight
4 of the code of one thousand nine hundred and sixteen, be amended
5 and re-enacted so as to read as follows:

"Sec. 4. There is hereby established in each county a mental
2 hygiene commission; to be composed of the president of the
3 county court, the prosecuting attorney and the clerk of the county
4 court, who shall serve as such without compensation, except for
5 traveling or other necessary expenses incurred in the discharge
6 of their duties as members of the commission, which expenses
7 shall be audited by the county court and paid out of the county
8 treasury; *provided*, that if the president of the county court
9 shall not reside conveniently to the county seat and for that
10 reason, or for other reason, shall desire not to serve as a mem-
11 ber of the commission, the county court may choose one of its other

12 members as a member of said commission. The president of
13 the county court, or other member thereof chosen in his stead,
14 as above provided, shall be the chairman of the commission. In
15 his absence, the prosecuting attorney shall act as such chair-
16 man, the clerk of the county court shall be the clerk of the com-
17 mission, and shall keep in a proper book provided for the pur-
18 pose the full and careful proceedings of all the acts, orders and
19 resolutions of the commission. Two members of the commission
20 shall be a quorum thereof.

“Sec. 6. If the person so found to be a lunatic by the com-
2 mission is a resident of another county of this state, the com-
3 mission shall make up and transmit to the sheriff of its county
4 a copy of the evidence taken on the examination of such person,
5 and shall find and certify to the sheriff the following facts con-
6 cerning such person, namely: His name, color, age and sex,
7 and the county of which he is a resident, giving the name of
8 the city, town or postoffice of such residence, if known. Such
9 certificate and copy of the evidence shall be signed by the chair-
10 man and clerk of the commission, attested by the seal of the
11 county. Upon receipt of such certificate and copy of evidence,
12 the sheriff shall thereupon remove such person to the county of
13 which he is a resident and deliver him into the custody of the
14 clerk of the county court; or, in his absence, to the sheriff, and
15 take a receipt in writing for him, which shall show the name of
16 such insane person, the date of delivery, the person who delivered
17 him and the person receiving him. The sheriff shall make due
18 return to the clerk of the county court of his county, showing
19 the manner in which he removed such insane person, making the
20 above mentioned receipt part of such return. Such return shall
21 be entered by the county clerk in the record of the proceedings
22 of the county mental hygiene commission. The expenses neces-
23 sarily incurred in effecting such removal, including the compensa-
24 tion to the person making the same, not to exceed three dollars
25 per day, and one guard when necessary, not to exceed one dollar
26 and a half per day, for each day actually so employed, shall be
27 paid out of the county treasury, and shall be refunded to the
28 county paying the same by the county court of the county to
29 which such lunatic was removed and of which he was a resident.
30 The mental hygiene commission of the last named county shall
31 proceed in the case of such lunatic as in the case of a person

32 brought before them charged with being a lunatic, and in such
33 case may consider the evidence and certificate delivered to them
34 by the commission of the other county.

“Sec. 8. The superintendent of the hospital to whom applica-
2 tion is made as hereinbefore provided, shall, on receipt of such
3 application, carefully consider the same, and if he be of the
4 opinion that the person named is a proper one to be admitted to
5 his institution, and there is room for him therein, he shall, with-
6 out delay, cause such person to be brought to his hospital by one of
7 the attendants thereof, the actual expenses whereof shall be paid
8 out of the proper fund of the hospital, and repaid to the state by
9 the county as hereinafter provided. If there be no room in the
10 hospital to which the application is made, the superintendent
11 thereof shall immediately communicate the fact to the state board,
12 which he may do when deemed necessary by telegraph or tele-
13 phone, and transmit the commitment papers to the state board,
14 whose duty it shall be to ascertain whether there is room in any
15 one of the other hospitals, and if there is, to cause him to be
16 admitted thereto, and the superintendent thereof to send attendant
17 for such person; *provided*, that any reputable and trustworthy
18 relative or friend of such insane person may be allowed by the
19 county mental hygiene commission to deliver him to the hospital,
20 if such relative or friend will do so, without expense to the county
21 or state.

“Sec. 9. When a person committed to a state hospital is re-
2 ceived therein he shall be carefully examined by the superintend-
3 ent and the assistant thereof, who are hereby constituted the
4 examining board of such institution. Such examination shall be
5 made as soon after such person is received in the hospital as may
6 be prudent; and, if from such examination (or from a subsequent
7 examination, if the first one be not satisfactory to the examining
8 board) he is found to be insane and a proper person to be re-
9 ceived therein, he shall be registered as an inmate of such hos-
10 pital, and receive maintenance, treatment and care therein; but
11 if he is not a proper person to be received in such hospital, or
12 if in the opinion of the examining board such person be not in-
13 sane, the superintendent shall cause him to be returned by an
14 attendant to the sheriff of the county from which he was received.
15 On receiving any such person it shall be the duty of the sheriff
16 immediately to notify the clerk of the county court thereof; and

17 it shall be the duty of the mental hygiene commission of such
18 county promptly to consider and dispose of such case.

"Sec. 10. The county court of any county may make contract
2 with two or more competent physicians respecting the compensa-
3 tion to be paid to them for their services in examining lunatics
4 and other persons brought before the mental hygiene commission
5 of the county, the county court, or the circuit court, or confined
6 in jail. The compensation of physicians, of all witnesses, and
7 of all other persons and officers whose compensation is not fixed
8 in this chapter or by any other law, employed in examination of
9 such persons, or for their care and maintenance, or for other
10 services in connection therewith, unless the same shall have been
11 agreed upon before or at the time such service was performed,
12 or is fixed by law, shall be such as may be prescribed by the county
13 court of the county, and shall be paid out of the county treasury.

"Sec. 11. Any resident of this state who is in the early stages
2 of insanity, or believes himself about to become insane, or any
3 epileptic who is not insane, or any other person so afflicted as to
4 believe that treatment in one of said hospitals would be beneficial
5 to him, may make application to the state board for the benefit
6 of treatment in one of the state hospitals, as a voluntary patient.
7 The application must be in writing, in such form as the state
8 board may prescribe, and be signed by the applicant, who shall
9 acknowledge his signature before a justice or a notary public.
10 The state board may require the certificate of one or more phy-
11 sicians and such other evidence of the mental and bodily condi-
12 tion of the applicant as they may think proper; and the board may
13 admit him for treatment in any state hospital upon such terms and
14 conditions, and with such security for payment of the price agreed
15 upon for treatment and maintenance therein, as the board may
16 deem proper. A voluntary patient may be discharged upon cer-
17 tificate of the superintendent of the hospital, because he is cured
18 or because further treatment therein is unnecessary or undesir-
19 able. A voluntary patient shall have the right to leave the hos-
20 pital at any time if in the judgment of the superintendent he is
21 in fit condition, and it is prudent for him to go at large, by
22 giving five days' notice of his desire to do so. Any relative or
23 friend of any such person, may make application to the state
24 board for his treatment in a state hospital, and the board may take
25 such action thereon as is provided above in this section, all the

26 provisions of which shall apply to such case, so far as applicable,
27 as when the application is made by the person himself.

“Sec. 12. There shall also be admitted to the Huntington state
2 hospital such patients as the state board may deem eligible; but
3 in no case to include tubercular, cancerous or leprous persons.
4 Such persons shall be committed by county courts, or in such
5 other manner as the state board may prescribe, and according
6 to regulations prescribed by said board.

“Sec. 13. When any patient in any state hospital is restored
2 to sanity the superintendent shall give him a certificate of restor-
3 ation and discharge him from custody. Any patient out on
4 parole, or on bond, or otherwise temporarily released from a hos-
5 pital, who has been restored to sanity, may present himself to
6 the superintendent. If after examination the superintendent
7 shall find him sane, he shall give him a certificate of restoration
8 and a discharge. Any person who has been found insane by a
9 county mental hygiene commission or any other board or tri-
10 bunal other than a circuit court, and any person who is con-
11 fined in any hospital or other place of confinement or otherwise
12 restrained of his liberty in violation of law, or a patient who has
13 been restored to sanity and to whom the superintendent of the
14 hospital refuses to give a certificate of restoration and discharge,
15 may present his petition, or any relative or friend may present
16 a petition in his behalf, to the circuit court of the county in
17 which the hospital is located in case of a patient denied the cer-
18 tificate of restoration, and in other cases to the circuit court of
19 the county in which the person is confined or is in custody, stating
20 the facts. The courts shall treat such petition as an application
21 for a writ of *habeas corpus*, so far as applicable and necessary,
22 and cause such process to issue as the court may deem proper,
23 and fix a time for the hearing of the case, which may be heard by
24 the court either with or without a jury, as the court may order;
25 and if the person is found sane, or it is found that he is held in
26 custody in violation of law, he shall be discharged. In cases of
27 patients who have been denied certificates of restoration and dis-
28 charge by the superintendent of a hospital, or in which it is
29 alleged that a patient is held in custody illegally in any state
30 hospital, the superintendent shall have at least five days' notice
31 of the time and place of the trial in the circuit court. . In all
32 such cases the prosecuting attorney shall represent the sheriff or

33 other county officer or the commission who shall be a defendant
34 in such proceedings; and the attorney general shall represent
35 the superintendent of any hospital who is a defendant. In case
36 the decision shall be against the applicant, he or his bondsmen
37 (if any), or the person signing the petition, shall pay the costs
38 of the proceeding. In any case in which a court may find a
39 person sane upon an inquest or trial respecting his sanity, he
40 shall be discharged and entitled to a certified copy of the order of
41 the court made in the case. Nothing in this section shall be con-
42 strued as applying to patients charged with or convicted of crime,
43 as provided in section fifteen hereof.

“Sec. 19. If any reputable person present to the clerk of the
2 county court of a county wherein a person is confined as a lunatic,
3 other than one charged with or convicted of crime, or other than
4 one confined in a state hospital, or a duly licensed private hos-
5 pital, an application in writing for the discharge of such lunatic
6 on the ground that he has been restored to sanity, the mental
7 hygiene commission for the county must consider the same, and
8 may proceed to make an inquest upon such lunatic as is herein-
9 before provided. If the commission find that such person has
10 been restored to sanity, they shall set him at liberty, if they have
11 authority to do so; and if they have not such authority, they shall
12 give a certificate of their finding to the person making the ap-
13 plication, who may present it to the proper court.

“Sec. 20. When a person is found insane or to be mentally de-
2 fective, by the county mental hygiene commission, or be committed
3 to a state hospital by the county court, the county court shall
4 appoint a guardian or a committee for him; and when a person
5 is found insane by the circuit court, such court shall appoint
6 a guardian or committee for him.

“Sec. 23. If the personal estate of such insane person or men-
2 tally defective, be insufficient for the discharge of his debts, or
3 if such estate or the residue thereof after payment of the debts,
4 and the rents and profits of his real estate, be insufficient for his
5 maintenance and that of his family, if any, the guardian or
6 committee of such person may petition the circuit court of the
7 county in which he was appointed, for authority to mortgage,
8 lease or sell so much of the real estate of such insane person as
9 may be necessary for the purposes aforesaid, or any of them;
10 setting forth in the petition the particulars and the amount of

11 the estate, real and personal, the application which may have
12 been made of any personal estate, and an account of the debts
13 and demands existing against the estate.

“Sec. 27. For the purposes of this chapter no person shall be
2 considered a resident of this state unless he is a citizen of the
3 United States and has been a *bonu fide* resident of this state for
4 at least one year, and was not insane when he came into this state.
5 And as among the counties, no person shall be considered a res-
6 ident of a county who is not a resident of the state as above de-
7 fined, and has been a resident of the county for at least sixty
8 days, and was not insane when he came into the county. In the
9 inquest on a person before them suspected of insanity, the county
10 mental hygiene commission, if it appear that he is not a resident
11 of this state, shall make diligent inquiry to ascertain his residence,
12 and if it be ascertained, shall state in the commitment papers
13 as definitely as their information shall justify, the city, town or
14 other place, as well as the state or country, of which he is a
15 resident. When a person who is a non-resident of the state is
16 sequestered as an inmate of a state hospital, the superintendent
17 thereof shall immediately report the fact to the state hospital
18 board. The board shall take proper steps to cause such a per-
19 son to be deported, if an alien; or, if otherwise a non-resident
20 of this state, to be taken to the state, territory or place of his resi-
21 dence and delivered to the proper authorities thereof.

“Sec. 28. No private hospital for the care and treatment of the
2 insane or mental defectives for compensation shall be established
3 unless a permit therefor shall be first obtained from the state
4 board. The application for such permit must be accompanied by
5 the plan of the premises to be occupied, and with such other data
6 and facts as the board may require, who may make such terms
7 and regulations in regard to the conduct of such hospital as it
8 may think proper and necessary. The state board, or any mem-
9 ber thereof, or any person by the board authorized to do so, shall
10 have full authority to investigate and inspect such private hos-
11 pital; and the state board may revoke the permit of any such hos-
12 pital for good cause, after reasonable notice to the superintend-
13 ent or other person in charge thereof.

“Sec. 29. Any physician who shall sign a certificate respecting
2 the sanity of any person without having made the examination
3 as provided for by this chapter, or shall make any statement in

4 any such certificate maliciously for the purpose of having such
5 person declared insane, and any person who shall maliciously make
6 application to any mental hygiene commission or other tribunal
7 for the purpose of having another person declared insane, shall
8 be fined not exceeding five hundred dollars, or imprisoned not
9 exceeding one year, or both fined and imprisoned at the discretion
10 of the court. Not more than one physician of any firm or asso-
11 ciation of physicians practicing medicine together, shall sign a
12 certificate provided for in this chapter respecting the mental or
13 bodily condition of any person suspected of insanity.

“Sec. 33. Every county shall pay into the state treasury at the
2 rate of fifty dollars per annum for every epileptic, idiot, imbecile,
3 or such other incurable defective heretofore or hereafter admitted
4 as a patient or inmate to a state hospital or training school from
5 such county, but the counties shall not be required to pay at said
6 rate of fifty dollars per annum or any other sum to the state
7 for the maintenance of any insane person proper, anything in
8 this act or any provision of the laws of this state to the contrary
9 notwithstanding. At every levy term of each county court it shall
10 estimate for and levy a sufficient amount to meet all such expenses.
11 The superintendent of said hospital, on or before the tenth day of
12 January of each year, shall certify to the auditor a list of all
13 the patients in the said hospital during the whole or any part
14 of the preceding year for which the counties are to pay, show-
15 ing on such list under the name of the county, the number from
16 each county and the length of time he was in said hospital dur-
17 ing the year, and showing the amount due from each county for
18 each patient, and the total amount due from each county for the
19 year. As soon as such list is received by the auditor he shall
20 charge to each county the amount appearing to be due from the
21 the certificates of the said superintendent. Within ten days after
22 the receipt of such certificate the auditor shall make out a copy
23 thereof for each county and certify the same to the county court
24 thereof, which list shall show the name of each patient in said
25 hospital from the county during the year, the length of time he
26 was in such hospital during the year, the amount charged for
27 each patient, and the total amount charged on account of all
28 such patients from the county; and said total amount shall con-
29 stitute a debt against the county due the state. Whenever there is
30 in the state treasury a sum of money due any county from any

31 source the same shall be at once applied on the debt aforesaid
32 against the county, and the fact of such application of such fund
33 shall be reported by the auditor to the county court of the county,
34 which report shall be a receipt for the amount therein named.
35 All moneys paid into the state treasury by counties as herein pro-
36 vided shall be credited by the auditor to the current expense or
37 maintenance fund of said hospital, and shall be subject to be
38 drawn out of the state treasury on the requisition of the state
39 board of control for the current expenses of the said hospital,
40 and all such moneys are hereby appropriated for that purpose.

“Sec. 34. All moneys which any county shall pay or become
2 liable for under the provisions of this chapter on account of any
3 inmate from the county in any state hospital or training school,
4 the county court of the county may recover, within five years
5 after payment of the same by the county or from the time the
6 county became liable therefor, from the persons and in the man-
7 ner following, namely: If the inmate be a minor, from his guar-
8 dian; or, if he have no estate, or it be insufficient, from his father;
9 or, if he have no father or his estate be insufficient, from his
10 mother. If the inmate be an adult, from his or her estate;
11 but if such estate be insufficient, and the inmate be a wife, from
12 the estate of her husband; or, if his estate be insufficient, from
13 the estate of her children, or such of them as have sufficient es-
14 tate. If the inmate be a husband, and his estate be insufficient,
15 from the estate of his wife; or, if her estate be insufficient from
16 the estate of his children, or such of them as have sufficient es-
17 tate. It shall be the duty of the guardian or committee of any
18 such inmate to pay to the county of which his ward is a resi-
19 dent, if he have sufficient estate in his hands to do so, the money
20 so due to the county from his ward. The county court may order
21 its clerk to make out a bill against any such inmate for the sum
22 so due to the county, which bill shall show the different items
23 and the amount of each, and be certified by the clerk as correct,
24 and by him delivered to the sheriff for collection. The clerk shall
25 charge against the sheriff the amount of each of such bills, show-
26 ing the date when delivered to the sheriff. It shall be the duty of
27 the sheriff to collect the same from the proper person, or the
28 guardian or committee of such inmate. Within sixty days after
29 receiving any such bill, or at the next session of the county court
30 held after the expiration of such sixty days, the sheriff shall make

31 a report to the county court of his acts in respect thereto and re-
32 turn all such bills he has been unable to collect. The county court
33 may re-deliver any of such bills to the sheriff for collection, and
34 in respect thereto the sheriff shall make report as above provided."

Sec. 8. All acts and parts of acts inconsistent with this act
2 are hereby repealed.

House Bill No. 121

(House Bill No. 121—Mr. Hugus, by request.)

AN ACT to amend and re-enact section six of chapter one hundred and eleven of the acts of the legislature of the state of West Virginia, for the year one thousand nine hundred and nineteen, entitled "An Act to amend and re-enact chapter forty-six-a of the code of West Virginia (Barnes' one thousand nine hundred and sixteen), relating to the care and disposition of delinquent children."

Be it enacted by the Legislature of West Virginia:

That section six of chapter one hundred and eleven, of the acts of the legislature of West Virginia for the year one thousand nine hundred and nineteen, entitled "An Act to amend and re-enact chapter forty-six-a of the code of West Virginia (Barnes' one thousand nine hundred and sixteen), relating to the care and disposition of delinquent children, be, and is hereby amended and re-enacted to read as follows:

Section 6. The circuit courts and other inferior courts of the
2 several counties in this state which have chancery jurisdiction
3 shall have authority to appoint any number of discreet persons of
4 good moral character to serve as probation officers during the
5 pleasure of the court; said probation officers to receive no com-
6 pensation from the county treasury except as herein provided. It
7 shall be the duty of the clerk of the court, if practicable, to notify
8 the said probation officer when any child is to be brought before
9 the court, or judge, and it shall be the duty of such probation
10 officer to make investigation of such case, to be present in court
11 or before said judge to represent the interests of the child when
12 the case is heard, to furnish such information and assistance as
13 the court or judge may require, and to take charge of any child

14 before and after the trial as may be directed by the court or judge.
15 The number of probation officers who may receive compensation
16 from the county, named and designated by the court, shall be as
17 follows: In counties having a population of over forty-eight
18 thousand, one or two probation officers may be appointed, in the
19 discretion of the judge. If two are appointed, one shall be desig-
20 nated as chief probation officer and the other as assistant proba-
21 tion officer. The chief probation officer shall receive a salary not
22 exceeding eighteen hundred dollars per year, and the assistant
23 shall receive a salary not exceeding twelve hundred dollars per
24 year, and expenses shall be allowed each probation officer in a sum
25 not exceeding one hundred dollars per year; *provided*, that in
26 counties having a population over sixty thousand the county
27 court may pay the chief probation officer the sum of three hundred
28 dollars per annum for each ten thousand of its population or
29 fraction thereof; *provided*, that the maximum sum paid any
30 probation officer under this act shall not exceed three thousand
31 dollars per annum, in counties having a population of over
32 eighteen thousand and less than forty-eight thousand, one proba-
33 tion officer may be appointed at a salary not to exceed six hundred
34 dollars per year except the county of Berkeley whose salary shall
35 not exceed nine hundred dollars per annum and expenses of pro-
36 bation work shall be allowed by the county in a sum
37 not to exceed one hundred dollars per year. In all
38 counties of over fifteen thousand population probation offi-
39 cers receiving compensation from the county may be appointed
40 by the judge of the circuit court, or other court having juris-
41 diction, and the said salary or expenses shall be paid in monthly
42 installments from the county treasury. In any county of
43 less than eighteen thousand population, one prohibition officer, at
44 a salary of not to exceed three hundred dollars per year, to be paid
45 as provided for probation officers in other counties, shall be ap-
46 pointed by the circuit judge or judge of inferior courts having
47 jurisdiction whenever in the opinion of the judge, the county
48 superintendent of schools and a majority of the board of county
49 commissioners of such county it shall be necessary to so care for
50 the delinquent children of the county. The county superintendent
51 of schools and the county commissioners in their respective
52 counties shall constitute a board to investigate the competency of
53 any person appointed to act as a probation officer whenever such

54 probation officer is to receive from the county a salary or other
55 compensation provided for under this act. Any judge appointing
56 such probation officer shall transmit such appointment to such
57 board of the county in which such appointment is made, and it
58 shall be the duty of a majority of said board to approve or disap-
59 prove of such appointee, within thirty days after submission there-
60 of by the said judge, and a failure to act thereon within such time
61 shall constitute an approval of such appointment; if a majority
62 of such board are of the opinion that such appointee does not pos-
63 sess the qualifications for a probation officer, they shall notify the
64 judge of their conclusions within thirty days from the submission
65 of such appointments to the respective members thereof, whereupon
66 it shall be the duty of the judge to withdraw such appointment and
67 appoint some one who shall receive the approval of said board. The
68 court or judge having jurisdiction may apportion the allowance to
69 probation officers between any two or more of them, but not ex-
70 ceeding the total amount fixed herein as may be deemed best.

71 Probation officers receiving a salary or other compensation from
72 the county, provided for by this act, are hereby vested with all
73 the power and authority of police or sheriffs to make arrests and
74 perform any other duties ordinarily required by policemen and
75 sheriffs which may be incident to their office or necessary or con-
76 venient to the performance of their duties; *provided* that other pro-
77 bation officers may be vested with like power and authority upon a
78 written certificate from the judge that they are persons of dis-
79 cretion and good character, and that it is the desire of the court
80 to vest them with all the power and authority conferred by law
81 upon probation officers receiving compensation from the county.

82 In counties of over thirty thousand population, whenever in the
83 opinion of the judge, the board of county commissioners, and the
84 superintendent of schools, additional probation officers to those
85 allowed by law are necessary for the care of the delinquent
86 children, not to exceed two assistant probation officers, in addi-
87 tion to the ones provided for herein, may be appointed in the man-
88 ner provided by this act, at a salary of not to exceed six hundred
89 dollars per year.

90 Salaries or compensation of paid probation officers shall be fixed
91 by the judge, not to exceed the sums herein provided for, shall be
92 certified to by the judge or being necessary in and about the
93 performance of the duties of probation officer or officers. The ap-

94 pointment of probation officers and the approval thereof as to
95 the qualification of such officers by the board herein designated,
96 shall be filed in the office of the clerk of the court. Probation
97 officers shall take oath such as may be required of other county
98 officers to perform their duties and file it in the office of the
99 clerk of the court, by which they have been appointed.

100 Nothing herein contained, however, shall be held to limit or
101 abridge the power of the judge to appoint any number of per-
102 sons or probation officers, whom said judge may see fit to ap-
103 point and who may be willing to serve without pay from the
104 county for such services as probation officers.

House Bill No. 284

(House Bill No. 284—Mr. Strother.)

AN ACT to amend and re-enact sections thirty-seven and forty-four
of chapter one hundred and eleven of the acts of one thousand
nine hundred and nineteen, relating to delinquent children

Be it enacted by the Legislature of West Virginia:

That sections thirty-seven and forty-four of chapter one hundred
and eleven of the acts of the legislature for one thousand nine hun-
dred and nineteen be amended and re-enacted to read as follows:

Section 37. When it shall appear to the county court of any
2 county in the state, that a necessity exists for the establishment
3 of a detention home for the temporary care and custody of de-
4 linquent, truant children, the court may submit the question of
5 locating, purchasing, erecting, leasing or otherwise providing
6 and establishing, and supporting and maintaining such deten-
7 tion home, and to levy and collect a tax to cover the cost of the
8 same, to the legal qualified voters of the county as hereinafter
9 provided.

Sec. 44. Any court acting under and in pursuance of this
2 act or any amendments thereto, may commit any child coming
3 within the terms of said act to said home, temporarily, and shall
4 require the parents of such child to pay into the county treasury,
5 monthly, a sum equal to the cost of keeping such a child so
6 long as it may be confined in the detention home; *provided*, that
7 if any such parent shows to the court, by satisfactory evidence,
8 that he is unable to pay such amount, then the court may remit

9 such charge. *Provided, however,* that in counties in this state
10 where the county courts have already located sites for such
11 homes, and purchased real estate for such purpose, under the
12 laws, as existing at the time, they shall not be required to sub-
13 mit the question to the legal qualified voters as to the establish-
14 ment and maintenance of such homes, but such homes shall be
15 established and maintained.

House Bill No. 65

(House Bill No. 65—Mr. Barnes.)

AN ACT to amend and re-enact chapter one hundred and ten of the
acts of nineteen hundred and nineteen, creating a state board of
children's guardians and defining and prescribing its functions,
duties and powers.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred and ten of the acts of nineteen hundred
and nineteen be amended and re-enacted so as to read as follows:

Section 1. There is hereby created a state board of children's
2 guardians, which shall be a corporation, and as such may con-
3 tract and be contracted with, plead and be impleaded, sue and be
4 sued, and have and use a common seal. It shall consist of three
5 members, who shall be citizens of the state, one of whom shall be
6 a woman, and not more than two of whom shall be chosen from
7 the same political party. They shall be appointed by the governor,
8 by and with the consent of the senate. The members first ap-
9 pointed shall hold office as designated by the governor for the
10 period of two, four and six years, respectively, beginning the first
11 day of July, one thousand nine hundred and nineteen. Subse-
12 quent appointments shall be made as above provided, and, except
13 to fill vacancies, each appointment shall be for a term of six years.
14 The board shall biennially choose one of its members to be president
15 thereof. The governor may remove any member for incompetency,
16 neglect of duty, gross immorality, malfeasance in office or for
17 other good cause; and in case of vacancy occurring by death,
18 resignation, removal or otherwise, may declare the office vacant
19 and fill the same by appointment for the unexpired term. The
20 board shall be provided by the board of public works with offices
21 at the state capital.

22 The board shall hold its annual meetings as soon as practicable

23 after the close of each fiscal year. There shall be not more than
24 four regular meetings each year.

25 The financial transactions of the board shall be supervised by
26 the state board of control. The members of the board shall be
27 paid a per diem of eight dollars for time actually employed or
28 assigned and necessary traveling and hotel expenses; *provided*, no
29 member shall be assigned more than five days in any one month.

30 The board shall make a biennial report to the governor, cover-
31 ing fully all its work, investigations, needs, and recommendations.

Sec. 2. Without charge to the board, the state department of
2 health shall make such skin and blood tests and the public printer
3 shall do such printing for said board as its work and needs may
4 require.

Sec. 3. The board shall make such by-laws, rules and regula-
2 tions relative to its management, government and work, not con-
3 trary to law, as it may deem proper and shall appoint such offi-
4 cers, employees and general and district agents as it may deem
5 necessary to carry on the operations of said board, designating
6 their duties and fixing their compensation; *provided*, that said
7 district agents shall not exceed ten in number; and *provided*,
8 *further*, that at least five of such agents shall be women.

Sec. 4. It shall be lawful for the board, its officers or agents,
2 to take or receive into its custody or control children as herein-
3 after provided.

4 (a) The term dependent children, as used herein or in any
5 statute concerning the care, custody or control of children, shall
6 mean any boy under the age of sixteen years and any girl under
7 the age of eighteen years, who is dependent upon public charity or
8 who is destitute, homeless, or abandoned.

9 (b) The term neglected children as used herein, shall mean
10 any boy sixteen years or under or any girl eighteen years or under
11 who has not proper parental care or guardianship; or who habit-
12 ually begs or receives alms, or who is found living in any house
13 of ill fame, or with any vicious or disreputable persons; or whose
14 home by reason of neglect, cruelty or disrepute on the part of its
15 parents, guardians or other persons in whose care it may be, is an
16 improper place for a child to live, or whose environment is such
17 as to warrant the state in the interest of the child in assuming its
18 guardianship.

19 (c) Whenever the board, any member, officer or agent thereof

20 or any reputable person shall have probable cause to believe that
21 a child is dependent or neglected, said board, member, officer,
22 agent or person may at any time present a petition setting forth
23 such facts, verified by the oath of some credible person having
24 a personal knowledge thereof, to the circuit, common pleas, crim-
25 inal, intermediate or juvenile court (or to the judge thereof in
26 vacation) of the county in which said child resides, which or who
27 may require such child to be delivered into the custody of said
28 board, or such other custody as the court or judge may deem
29 proper, to care for such child until a hearing can be had upon
30 such petition; and reasonable notice of the time and place of such
31 hearing shall be given to the local district agent of said board and
32 served upon the person from whose custody said child was taken,
33 or who is sought to be deprived of the custody of said child; and
34 such agent or any parent or other persons legally entitled to stand
35 in *loco parentis* or other relative of such child may appear and
36 be heard at such hearing.

37 If the facts set forth in said petition, constituting dependency
38 or neglect, shall on the hearing be maintained, and it shall appear
39 to the judge or court that the interest and welfare of such child
40 require the custody thereof to be changed, the judge or court
41 shall order the custody thereof to be changed, and may by order
42 commit the child to the care of said board. No child shall be
43 committed to the board who is not mentally normal, and all
44 children committed to the board shall first receive a physical and
45 medical examination based upon blank forms to be provided by
46 said board. All pertinent information adduced or developed at
47 such hearing regarding the history and situation of the child,
48 its parents and forebears shall be supplied by the court or judge to
49 the board at the time of its commitment, on blank forms to be
50 provided by the said board, to enable the board to deal intelli-
51 gently with the child and eventually to provide the child with such
52 information as is deemed advisable by the said board. All such
53 information shall be kept by the board in permanent form and
54 shall be in the custody of its secretary. Such record shall be
55 open to inspection only by permission granted by said board.

56 (d) All costs and expenses necessary or proper in connection
57 with a hearing or commitment under this section shall be a proper
58 charge against the county in which the hearing is held, and shall
59 be paid by the county court thereof upon submission to it of an

60 itemized statement thereof, verified by affidavit of an agent of the
61 board. The fees allowed for such hearings shall be the same as
62 are allowed in proceedings for the commitment of boys to the
63 West Virginia industrial school for boys.

64 (e) Whenever application is made to the board to accept the
65 care and custody of children hereunder, said board shall make a
66 careful and thorough investigation; and, if it is found that it is
67 a case of a poor but otherwise worthy parent or guardian, the
68 board may upon application to said court or judge secure an
69 order for the maintenance of said parent and children, which
70 maintenance, when so fixed, shall be a proper charge against the
71 county in which such parent and children reside and shall be
72 paid by the county court thereof, and furnished under the
73 mother's pension act or otherwise according to law.

74 (f) This act shall be liberally construed to the end that proper
75 guardianship may be provided for such children as are herein-
76 before described, and that said children may be educated, and
77 cared for, as far as practicable, in such manner as best subserves
78 their moral, intellectual and physical welfare, and as far as prac-
79 ticable in proper cases that the parent or persons having such
80 children in their care, custody or control may be enabled and com-
81 pelled to perform their moral and legal duty in the interests of
82 such children.

83 (g) All children declared public wards under the provisions
84 of this act shall remain public wards until they reach the age of
85 twenty-one years, unless they shall upon a proper showing made
86 be returned by order of the board to their parents, or other
87 guardian, or shall be adopted in the manner prescribed by law.

Sec. 5. If the court or judge shall find any male child under
2 the age of sixteen years or female child under the age of eighteen
3 years to be dependent or neglected within the meaning of this act,
4 the court or judge may allow such child to remain at its home
5 subject to the friendly visitation of an agent of the board or to
6 report to the court, judge or such agent from its home or school
7 at such times as the court, judge or board may require. And if
8 the parent, guardian or custodian consent thereto, or if the court
9 or judge shall further find that the parents, parent, guardian or
10 custodian of such child are unfit or improper guardians or are
11 unable or unwilling to care for, protect, train, educate in accord-
12 ance with the general school law of the state, correct or discipline

13 such child and that it is for the interest of such child and of the
14 people of this state that such child be taken from the custody
15 of its parents, parent, custodian or guardian, the court or judge
16 may make an order appointing as guardian of the person of such
17 child some reputable citizen of good moral character; or the
18 court or judge may enter an order committing such child to some
19 suitable state institution, organized for the care of dependent or
20 neglected children, or to some training or industrial school or
21 children's homefinding society, or to some association embracing
22 in its objects the purpose of caring for or obtaining homes for
23 neglected or dependent children, which association shall have
24 been accredited as hereinafter provided.

Sec. 6. In every case where such child is committed to an
2 institution or association, the court or judge shall appoint the
3 president, secretary or superintendent of such institution or asso-
4 ciation, guardian over the person of such child, and shall order
5 such guardian to place such child in such institution or with such
6 association whereof he is such officer, and to hold such child, care
7 for, train and educate it therein subject to the rules and laws
8 that may be in force from time to time governing such institu-
9 tion or association.

Sec. 7. All children surrendered to the care or committed to
2 the custody of such board shall be under its supervision and con-
3 trol in the manner herein provided, until they are received into an
4 orphan asylum or children's home, or other suitable home, as
5 herein provided, or until otherwise ordered by the said circuit,
6 criminal, intermediate, common pleas or juvenile court in session
7 or the judge thereof sitting in vacation. Any person who shall
8 either personally or by agent entice or attempt to entice away a
9 child from the custody of such board, its officers or agents, or
10 private homes in which such child may be placed hereunder, or
11 who shall by threats, menace or force, deprive or attempt to
12 deprive the board, its officers or agents, or such home, of the
13 custody of a child, shall be guilty of a misdemeanor, and shall
14 be fined not less than ten nor more than one hundred dollars and
15 may at the discretion of the court be imprisoned in the county
16 jail not less than one nor more than six months; and justices of
17 the peace shall have concurrent jurisdiction with the circuit,
18 criminal and intermediate courts, in the trial of such offenses.

Sec. 8. Said board may place any of such children in any orphan asylum or children's home, incorporated under the laws of the state of West Virginia and approved by said board, and it shall be lawful for any orphan asylum or children's home to receive from said board, its officers or agents, any such children. As to any child or children so received, such orphan asylum or children's home shall have the same rights, powers, privileges and authority and be subject to the same duties, requirements and responsibilities as in the case of children placed under its care and management in any of the modes now allowed by law.

Sec. 9. Said board may, when in its discretion it shall appear proper, place any of said children in suitable private homes, and, in such cases the said board and the person or persons with whom said child or children are placed, shall observe and be governed by all the provisions of the laws of this state concerning the placing of children in private homes and the rules and regulations of said board.

Sec. 10. The said board shall, upon request of the state board of control, make investigations, visitations and reports to the said board of control of youths paroled from the state industrial home for girls, the state industrial school for boys, or the state colored orphans' home, or on the homes to or in which youths from said institutions are about to be or have been paroled or placed.

Said board may upon the request of the principal of the schools for the deaf and the blind also investigate applications for admission to such schools, and upon request of the state board of control investigate applications for admission to the state hospitals for orthopedic treatment, and in all such cases covered by this paragraph said board shall have authority to procure proper medical and surgical examinations; and all expenses of such examinations and of transportation of the applicant to the hospital and therefrom to the home of the applicant shall be a proper charge against the county from which the applicant comes, and shall be allowed by the county court thereof, upon the submission to it of an itemized statement of such expenses, verified by the affidavit of an agent of said board.

Sec. 11. All institutions, hospitals, lying-in or maternity homes, or associations receiving children for the purpose of care, training or placing in other institutions or in private homes under

4 this act shall be subject to visitation, inspection and supervision by
5 the state board of children's guardians, other than state institutions
6 subject to the management of the state board of control, and it
7 shall be the duty of the state board of children's guardians to
8 pass annually upon the fitness of every such institution, hospital,
9 home or association as may receive, or desire to receive children
10 for the purposes aforesaid and every such institution, hospital,
11 home or association shall make report thereto, showing its con-
12 dition, management and competency to adequately care for or
13 train such children as are or may be received by or committed
14 to it, and such other facts as said board may require, annually at
15 such time as the said board may direct; and upon said board being
16 satisfied that such association or institution is competent, and has
17 adequate facilities to care for or train such children, the board
18 shall issue to the same a certificate to that effect, which certificate
19 shall continue in force for one year, unless sooner revoked by
20 said board, and no child shall be received by or committed to any
21 such institution or association which shall not have received such
22 certificate within eighteen months next preceding the commit-
23 ment. The board may, at any time, require from any association
24 receiving or desiring to receive children for the purpose of care,
25 training or placing in other institutions or private homes, such
26 reports, information and statements as the board shall deem
27 proper or necessary for its action.

28 On the basis of its investigations and of the reports submitted
29 to it, the board may offer to the officials in charge or to those in
30 control of eleemosynary, charitable and correctional institutions
31 included in this act and to those dispensing relief funds, such
32 suggestions as in its judgment it shall deem expedient; and it is
33 authorized to institute proceedings for the revocation of charters
34 of such institutions, organizations or societies as wilfully fail to
35 establish within a reasonable length of time such standards of
36 work as are suggested by said board. All proceedings under this
37 section shall be included by the board in its biennial report to the
38 governor.

Sec. 12. No association whose objects embrace the training,
2 caring for or placing in institutions or private homes dependent
3 or neglected children shall hereafter be incorporated unless the
4 proposed articles of incorporation shall first have been submitted
5 for examination by the state board of children's guardians, and

6 the secretary of state shall not issue such a certificate of incorpo-
7 ration unless there shall first be filed in his office the certificate
8 of said board that it has examined the said articles of incorpora-
9 tion, that in its judgment the incorporators are reputable, reliable
10 and responsible persons, that the proposed work is needed and that
11 the incorporation of such association is desirable for the public
12 good and the welfare of dependent or neglected children. Any
13 amendment proposed to the article of incorporation of any such
14 association now existing or hereafter created shall be submitted in
15 like manner to the state board of children's guardians, and the

Sec. 14. No association, incorporation or unincorporated, ex-
2 isting under the laws of any other state shall place any child in
3 any family home within this state, either with or without indenture
4 or for adoption, unless the said association shall have furnished
5 the state board of children's guardians with such guaranty as it
6 may require that no child shall be brought into the state by such
7 society or its agents, having any contagious or incurable disease,
8 or having any deformity, or being of feeble mind, or of vicious
9 character, and that said association shall promptly receive and
10 remove from the state any child brought into the state by its
11 agent, which shall become a public charge within the period of
12 five years after being brought into this state. Any person who
13 shall receive to be placed in a home, or shall place in a home
14 any child in behalf of any such association of any other state,
15 which shall not have complied with the requirements of this act
16 shall be guilty of a misdemeanor, and upon conviction thereof be
17 imprisoned in the county jail not more than thirty days, or fined
18 not less than five dollars nor more than one hundred dollars, or
19 both, in the discretion of the court.

Sec. 15. The board in placing children shall place them as far
2 as practicable in the care and custody of some individual holding
3 the same religious belief as the parents or relatives of said child,
4 or with some association which is controlled by persons of like
5 religious belief with that of the parents of the said child.

Sec. 16. If it shall appear upon the hearing of the case that
2 the parents, parent, or any person or persons named in the petition
3 mentioned in section three hereof, who are in law liable for the
4 support of such child, are able to contribute to the support of
5 such child, the court or judge shall enter an order requiring such
6 parents, parent or other person to pay to the guardian so ap-

7 pointed or to the institutions, associations, society or persons to
8 whom such child may be committed, a reasonable sum from time
9 to time for the support, maintenance or education of such child,
10 and may order such parents, parent or other person to pay to the
11 guardian so appointed or to the institution, association, society
12 or person, to which such child may be committed, a reasonable
13 sum from time to time for the support, maintenance or education
14 of such child, and may order such parents, parent or other persons
15 to give reasonable security for the payment of such sum or sums,
16 and upon failure to pay, may enforce obedience to such order by
16 secretary of state shall not record such amendment or issue his
17 certificate thereof unless there shall be filed in his office the cer-
18 tificate of said board that it has examined said amendment, that
19 the association in question is, in the judgment of said board, per-
20 forming in good faith the work undertaken by it, and that the
21 said amendment is, in the judgment of the board, a proper one
22 for the public good, and in the interest of neglected and dependent
23 children.

Sec. 13. Whenever a petition filed as provided in section four
2 hereof, or a supplemental petition filed at any time after the ap-
3 pointment of the guardian, shall pray that the guardian appointed
4 or to be appointed shall be authorized to consent to the legal
5 adoption of the child, and the court upon the hearing shall find
6 that it is to the best interests of such child that the guardian be
7 given such authority, the court may, in its order appointing such
8 guardian, empower him to appear in court where any proceedings
9 for the adoption of such child may be pending, and to consent to
10 such adoption. Such consent shall be sufficient to authorize the
11 court where adoption proceedings are pending to enter a proper
12 order or decree of adoption without further notice to, or consent
13 by, the parents or relatives of such child; *provided, however,* that
14 before entering such order the court shall find from the evidence
15 (1) the parents or surviving parent of a legitimate child or the
16 mother of an illegitimate child, or if the child has no parents
17 living, the guardian of the child, if any, or if there is no parent
18 living, and the child has no guardian or the guardian is not
19 known to the petitioner, then a known near relative of the child,
20 if any there be, consents to such order; or (2) that one parent
21 consents and the other is unfit for any of the reasons hereinafter
22 specified to have the child, or that both parents are, or that the

23 surviving parent is unfit, or that the mother of an illegitimate
24 is so unfit for any such reasons—the grounds of unfitness being
25 (a) depravity, (b) open and notorious adultery or fornication,
26 (c) habitual drunkenness for the space of one year prior to the
27 filing of the petition, (d) extreme and repeated cruelty to the
28 child, (e) abandonment of or (f) desertion of the child for more
29 than six months next preceding the filing of the petition; and (3)
30 that such child, if of the age of fourteen years or over, consents to
31 such order.

17 proceeding as for contempt of court. The court or judge may, on
18 application and on such notice as the court or judge may direct,
19 from time to time, make such alterations in the allowance as shall
20 appear reasonable and proper.

Sec. 17. If the person so ordered to pay for the support,
2 maintenance or education of a dependent or neglected child shall
3 be employed for wages, salary or commission, the court or judge
4 may also order that the sum to be paid to him shall be paid to the
5 guardian or institution, who has custody of such child, out of his
6 wages, salary or commission, and that he shall execute an assign-
7 ment thereof *pro tanto*. The court or judge may also order the
8 parent or the person so ordered to pay the sum of money for the
9 support, maintenance or education of a child, from time to time
10 to make discovery to the court or judge as to his place of employ-
11 ment and the amount earned by him. Upon his failure to obey the
12 order of court or judge he may be punished as for contempt of
13 court.

Sec. 18. Nothing in this act shall be construed to give the
2 guardian appointed hereunder the guardianship of the estate of
3 the child, or to change the age of minority for any other purpose
4 except the custody of the child; *provided*, any guardianship of the
5 estate of a child committed to guardianship hereunder shall from
6 time to time furnish full information concerning the property of
7 the child to said board according to such rules and regulations as
8 it may prescribe.

Sec. 19. Any person who shall by any act cause, encourage or
2 contribute to the dependency of a child, as these terms with refer-
3 ence to children are defined by the statutes of this state, or who
4 shall for any cause be responsible therefor, shall be guilty of a
5 misdemeanor, and upon trial and conviction thereof, shall be fined
6 in a sum not to exceed five hundred dollars or imprisoned in the

7 county jail for a period not exceeding one year, or by both such
8 fine and imprisonment.

Sec. 20. The court or judge may permit any child to remain
2 in the custody of the person found guilty by this act of con-
3 tributing to its dependency, under such suspended sentences and
4 upon such conditions for the treatment and care of such child as
5 may seem to be for its welfare, or may be calculated to secure
6 obedience to the law or to remove the cause of such dependency
7 or neglect, and while such conditions are accepted and complied
8 with by any such person such sentence may remain suspended
9 subject to be enforced upon the violation of any of the conditions
10 so imposed; and any bond given for their performance may be
11 forfeited upon a failure to comply with any such conditions, as
12 well as upon the failure to pay any amount required for the main-
13 tenance of such child.

Sec. 21. In order to find any person guilty of violating the two
2 preceding sections of this act it shall not be necessary to prove
3 that the child has actually become dependent; *provided*, it ap-
4 pears from the evidence that through any act of neglect or omission
5 of duty or by the improper conduct on the part of any such per-
6 son the dependency of any child may have been caused or merely
7 encouraged.

Sec. 22. The said board shall gather statistics and study legis-
2 lation and problems connected with dependent, delinquent and
3 defective children and publish the results from time to time. It
4 shall also make available, as far as practicable, to officials dealing
5 with these problems and with the said classes, such literature as
6 shall tend to increase their efficiency.

Sec. 23. All acts or parts of acts inconsistent with this act,
2 or any part thereof are hereby repealed.

House Bill No. 224

(House Bill No. 224—Mr. McClinton, of Greenbrier.)

AN ACT to amend and re-enact section nine, chapter one hundred
and fifty Barnes' code, one thousand nine hundred and sixteen,
relating to qualifications of those desiring to practice medicine in
the state of West Virginia.

Be it enacted by the Legislature of West Virginia:

That section nine, chapter one hundred and fifty Barnes' code of the year one thousand nine hundred and sixteen be amended and re-enacted to read as follows:

Section 1. The following persons and no others shall here-
2 after be permitted to practice medicine in this state. (1) All
3 such persons as shall be legally entitled to practice medicine in
4 this state at the time of the passage of this act. (2) All such
5 persons as shall be graduates of class "A" medical schools as classi-
6 fied by the council on education of the American medical associa-
7 tion and American association of medical colleges and then
7-a only from such schools when so classified as do re-
8 quire as a condition to entrance upon the study of
9 medicine at least two years of academic work of collegiate
10 grade in a standard college of arts and sciences of equal rank
11 with the college of arts and sciences in the University of West
12 Virginia, who shall pass an examination before said public health
13 council and shall receive a certificate therefrom as hereinafter
14 provided. *Provided, however,* that the public health council, or a
15 majority of them, may accept, in lieu of an examination, the cer-
16 tificate of license to practice medicine legally granted by the state
17 board of registration or examination or licensing board of an-
18 other state, territory or any foreign country whose standard of
19 qualification for the practice of medicine is equivalent to that of
20 this state, and grant to the said applicant a certificate of license
21 to practice medicine in this state; provided such states, territories
22 or foreign countries accord like privileges to licentiates of this
23 state. The public health council shall at such times as a ma-
24 jority of them deem proper, hold examinations for the licensing
25 of practitionere of medicine; such examinations shall not be less
26 than two during the year, and shall be held at such points in the
27 state as shall be most convenient for those presenting themselves
28 for examination, or to the public health council; at such examina-
29 tions, written and oral questions shall be submitted for the appli-
30 cants for license, covering all the essential branches of the sciences
31 of medicine and surgery, and the examination shall be a thorough
32 and decisive test of the knowledge and ability of the applicants.
33 The president and secretary of the public health council shall issue
34 certificates to all who successfully pass the said examination and
35 to all those whose certificates said public health council or a major-

ity of them shall accept in lieu of an examination as hereinbefore provided, except that in all the certificates issued to applicants who adhere to the osteopathic school it shall appear that it is for the practice of osteopathy, and such certificates after being duly recorded as hereinafter provided, shall be deemed licenses to practice medicine, surgery and osteopathy in all their branches in this state. The public health council shall give timely notice of the time and place of holding such examinations in at least three newspapers of general circulation in this state, and all such persons wishing to present themselves for examination shall notify the secretary and comply with the rules of the public health council. No applicant for license to practice medicine in this state shall be rejected because of his or her adherence to any particular school or theory of medicine. The public health council shall call to their assistance in the examination of any applicant who professes the homeopathic, osteopathic or eclectic school of medicine, a homeopathic, osteopathic or eclectic physician entitled to practice medicine in this state under this act, and such homeopathic, osteopathic, or eclectic physician so called to the assistance of the public health council, shall be allowed per diem and actual expenses incurred hereinbefore allowed the regular members of the public health council; *provided, however*, that the provisions of this and the preceding section shall not apply to physicians living in other states and duly qualified to practice medicine therein, who shall be called in consultation into this state, by a physician legally entitled to practice medicine in this state under this chapter, and, *provided, further*, that the provisions of this chapter shall not apply to females practicing midwifery, or to commissioned officers of the United States army and navy and marine hospital service when in the actual discharge of their duties as such commissioned officers.

House Bill No. 40

(Committee Substitute for House Bill No. 40.)

(By Committee on Medicine and Sanitation.)

AN ACT to provide for adequate registration of all births, deaths and marriages and to repeal certain sections of chapters sixty-three and one hundred and fifty of the code of West Virginia.

Be it enacted by the Legislature of West Virginia:

Section 1. That the state department of health shall have charge of the registration of births, deaths and marriages; shall prepare the necessary instructions, forms and blanks for obtaining and preserving the state records, and shall procure the faithful registration of the same in each primary registration district as constituted in section three of this act, and in the central division of vital statistics at the capital of the state, and that each county may have a complete record of births, and deaths occurring in said county, the state department of health shall furnish, as hereinafter provided, to the several county clerks, duplicate records of all births and deaths occurring in their respective counties, which records shall be entered by the clerk in a systematical and orderly way in a register of births and a register of deaths for that county. The said department shall be charged with the uniform and thorough enforcement of the law throughout the state.

Sec. 2. That the state commissioner of health shall have general supervision over the division of vital statistics, which shall be under the immediate direction of a state registrar of vital statistics, who shall be appointed by the state commissioner of health, with the advice of the public health council, within thirty days after the taking effect of this law, and who shall be a medical practitioner of not less than five years practice in his profession and a competent vital statistician. The state registrar of vital statistics shall hold office for four years and until his successor has been appointed and has qualified, unless such office shall sooner become vacant by death, disqualification, operation of law, or other causes. Any vacancy occurring in such office shall be filled for the unexpired term by the state commissioner of health. At least ten days before the expiration of the term of office of the state registrar of vital statistics, his successor shall be appointed by the state commissioner of health. The state commissioner of health shall provide for such clerical and other assistance in the division of vital statistics as may be necessary for the purposes of this act. The custodian of the capitol shall provide for the division of vital statistics at the state capitol at Charleston, suitable offices, which shall be properly equipped with fireproof vault and filing cases for the permanent and safe preservation of all official records made and returned under this act.

Sec. 3. That for the purposes of this act the state shall be divided into registration districts as follows: Each city, each incorporated town, and each magisterial district shall constitute a primary registration district for births and deaths, and each county shall constitute a primary registration district for marriages, *provided*, that the state department of health may combine two or more registration districts for births and deaths or divide such districts when necessary to facilitate registration.

Sec. 4. That within ninety days after the taking effect of this act, or as soon thereafter as possible, the state registrar shall appoint a local registrar of vital statistics for the registration of births and deaths in each registration district in the state. The term of office of each local registrar so appointed shall be four years and until his successor has been appointed and has qualified, unless such office shall sooner become vacant by death, disqualification, operation of law, or other causes; *provided*, that in cities where health officers or other officials are, in the judgment of the state registrar, conducting effective registration of births and deaths under local ordinances at the time of the taking effect of this act, such officials may be appointed as registrars in and for such cities and shall be subject to the rules and regulations of the state registrar, and to all of the provisions of this act. Any vacancy occurring in the office of local registrar of vital statistics for births and deaths shall be filled for the unexpired term by the state registrar. At least ten days before the expiration of the term of office of any such local registrar, his successor shall be appointed by the state registrar. For the registration of marriages, the county clerk of each county shall act as local registrar.

Any local registrar appointed for the registration of births and deaths, who, in the judgment of the state registrar of vital statistics, fails or neglects to discharge efficiently the duties of his office as set forth in this act, or to make prompt and complete returns of births and deaths as required thereby, shall be forthwith removed by the state registrar, and such other penalties may be imposed as are provided under section twenty-three of this act.

Each local registrar for the registration of births and deaths shall immediately upon his acceptance of appointment as such, appoint a deputy, whose duty it shall be to act in his stead in

33 case of his absence or disability, and such deputy shall in writing
34 accept such appointment, and be subject to all rules and regula-
35 tions governing local registrars. And when it appears necessary
36 for the convenience of the people in any district, the local regis-
37 trar is hereby authorized, with the approval of the state reg-
38 istrar, to appoint one or more suitable persons to act as sub-
39 registrars who shall be authorized to receive certificates and to
40 issue burial or removal permits in and for such portions of the
41 district as may be designated; and each sub-registrar shall note,
42 on each certificate, over his signature, the date of filing, and
43 shall forward all certificates to the local registrar of the dis-
44 trict within ten days, and in all cases before the third day of
45 the following month; *provided*, that each sub-registrar shall be
46 subject to the supervision and control of the state registrar, and
47 may be by him removed for neglect or failure to perform his
48 duty in accordance with the provisions of this act or the rules
49 and regulations of the state registrar, and shall be subject to
50 the same penalties for neglect of duty as the local registrar.

Sec. 5. That the body of any person whose death occurs in
2 this state, or which shall be found dead therein, shall not be
3 interred, deposited in a vault or tomb, cremated, or otherwise
4 disposed of, or removed from or into any registration district,
5 or be temporarily held pending further disposition more than
6 seventy-two hours after death, unless a permit for burial, removal,
7 or other disposition thereof shall have been properly issued by
8 the local registrar of the registration district in which the death
9 occurred or the body was found. And no such burial or removal
10 permit shall be issued by any registrar, until, wherever practi-
11 cable, a complete and satisfactory certificate of death has been
12 filed with him as hereinafter provided; *provided*, that when a
13 dead body is transported from outside the state into a registra-
14 tion district in West Virginia for burial, the transit or removal
15 permit, issued in accordance with the law and health regulations
16 of the place where the death occurred, shall be accepted by the
17 local registrar of the district into which the body has been trans-
18 ported for burial or other disposition, as a basis upon which he
19 may issue a local burial permit; he shall note upon the face of
20 the burial permit the fact that it was a body shipped in for
21 interment, and give the actual place of death; and no local regis-
22 trar shall receive any fee for the issuance of burial or removal

23 permits under this act other than the compensation provided in
24 section nineteen.

Sec. 6. That a stillborn child shall be registered as a birth and
2 also as a death, and separate certificates of both the birth and
3 the death shall be filed with the local registrar, in the usual form
4 and manner, the certificate of birth to contain in place of the
5 name of the child, the word "stillbirth"; *provided*, that a certifi-
6 cate of birth and a certificate of death shall not be required for
7 a child that has not advanced to the fifth month of uterogestation
8 or to a total length of ten inches. The medical certificate of the
9 cause of death shall be signed by the attending physician, if any,
10 and shall state the cause of death as "stillborn," with the cause
11 of the stillbirth, if known, whether a premature birth, and if
12 born prematurely, the period of uterogestation, in months, if
13 known; and a burial or removal permit, of the prescribed form
14 shall be required. Stillbirths occurring without attendance of
15 a physician, shall be treated as deaths without medical attendance,
16 as provided for in section eight of this act.

Sec. 7. That the certificate of death shall contain the follow-
2 ing items, which are hereby declared necessary for the legal, so-
3 cial and sanitary purposes subserved by registration records.

4 (1) Place of death, including state, county, district, village
5 or city. If in a city, the ward, street and house number; if in
6 a hospital or other institution, the name of the same to be given
7 instead of the street and house number. If in an industrial
8 camp, the name of the camp to be given.

9 (2) Full name of decedent. If an unnamed child, the sur-
10 name preceded by "unnamed."

11 (3) Sex.

12 (4) Color or race—as white, black, mulatto, (or other negro
13 descent) Indian, Chinese, Japanese or other.

14 (5) Conjugal condition, as single, married, widowed or di-
15 vorced.

16 (6) Date of birth, including the year, month and day.

17 (7) Age, in years, months and days. If less than one day,
18 the hours or minutes.

19 (8) Occupation. The occupation to be reported of any per-
20 son, male or female, who had any remunerative employment with
21 the statement of:

22 (a) trade, profession or particular kind of work;

- 23 (b) General nature of industry, business or establishment in
24 which employed (or employer).
- 25 (9) Birthplace; at least state or foreign country, if known.
- 26 (10) Name of father.
- 27 (11) Birthplace of father; at least state or foreign country, if
28 known.
- 29 (12) Maiden name of mother.
- 30 (13) Birthplace of mother; at least state or foreign country,
31 if known.
- 32 (14) Signature and address of informant.
- 33 (15) Official signature of registrar, with the date when cer-
34 tificate was filed, and registered number.
- 35 (16) Date of death, year, month and day.
- 36 (17) Certification as to medical attendance on decedent, fact
37 and time of death, time last seen alive, and the cause of death,
38 with the contributory (secondary) cause of complication, if any,
39 and duration of each, and whether attributed to dangerous or
40 unsanitary conditions of employment; signature and address of
41 physician or official making the medical certificate.
- 42 (18) Length of residence (for inmates of hospitals and other
43 institutions; transients or recent residents) at place of death
44 and in the state, together with the place where the disease was
45 contracted, if not at the place of death, and former or usual resi-
46 dence.
- 47 (19) Place of burial or removal; date of burial.
- 48 (20) Signature and address of undertaker or person acting
49 as such.
- 50 The personal and statistical particulars (items 1 to 13) shall
51 be authenticated by the signature of the informant, who may
52 be any competent person acquainted with the facts. The medical
53 certificate shall be made and signed by the physician, if any,
54 last in attendance on the deceased, who shall specify the time in
55 attendance, the time he last saw the deceased alive and the hour
56 of the day at which the death occurred. And he shall further
57 state the cause of death, so as to show the course of disease or
58 sequence of causes resulting in the death, giving first the name
59 of the disease causing death (primary cause), and the contrib-
60 utory (secondary) cause, if any, and the duration of each. In-
61 definite and unsatisfactory terms, denoting only symptoms of
62 disease or conditions resulting from disease will not be held suffi-

63 cient for the issuance of a burial or removal permit; and any
64 certificate containing only such terms shall be returned to the
65 physician or person making the medical certificate for correction
66 and more definite statement. Causes of death which may be the
67 result of either disease or violence shall be carefully defined;
68 and if from violence, the means of injury shall be stated, and
69 whether (probably) accidental, suicidal, or homicidal. And for
70 deaths in hospitals, institutions, or of non-residents, the physi-
71 cian shall supply the information required under this head
72 (Item 18) if he is able to do so, and may state where, in his opin-
73 ion, the disease was contracted.

Sec. 8. That in case of any death occurring without medical
2 attendance, it shall be the duty of the undertaker or person act-
3 ing as undertaker, to notify the local registrar of such death,
4 and when so notified the registrar shall, prior to the issuance of
5 the permit, inform the local health officer and refer the case to
6 him for immediate investigation and certification; *provided*, that
7 when the local health officer is not a physician, or when there is
8 no such official, and in such cases only, the registrar is author-
9 ized to make the certificate and return from the statement of
10 relatives or other persons having adequate knowledge of the facts;
11 *provided, further*, that if the registrar has reason to believe that
12 the death may have been due to unlawful act or neglect, he shall
13 then refer the case to the coroner or other proper officer for his
14 investigation and certification. And the coroner or other proper
15 officer whose duty it is to hold an inquest on the body of any
16 deceased person, and to make the certificate of death required for
17 a burial permit, shall state in this certificate the name of the
18 disease, causing death, or if from external causes, (1) the means
19 of death; and (2) whether (probably) accidental, suicidal, or
20 homicidal; and shall, in any case, furnish such information as
21 may be required by the state registrar in order properly to classify
22 the death.

Sec. 9. That the undertaker, or person acting as undertaker,
2 shall file the certificate of death with the local registrar of the
3 district in which the death occurred and obtain a burial or re-
4 moval permit prior to any disposition of the body. He shall
5 obtain the required personal and statistical particulars from the
6 person best qualified to supply them, over the signature and ad-
7 dress of his informant. He shall then present the certificate to
8 the attending physician, if any, or to the health officer or coroner,

9 as directed by the local registrar, for the medical certificate of
10 the cause of death and other particulars necessary to complete the
11 record, as specified in sections seven and eight. And he shall
12 then state the facts required relative to the date and place of
13 burial or removal, over his signature and with his address, and
14 present the completed certificate to the local registrar in order to
15 obtain a permit for burial, removal or other disposition of the
16 body. *Provided*, that in an emergency where it is necessary to ship
17 a body or where for other good and sufficient reasons, an under-
18 taker or person acting as such, is unable to comply with the require-
19 ments of this section, he may file a provisional death certificate with
20 the local registrar and secure from that official a burial, removal
21 or transit permit; *provided*, that within a period of ten days the
22 undertaker or person acting as such, shall exchange for the pro-
23 visional death certificate previously filed, a death certificate com-
24 pletely and satisfactorily made out, as contemplated in section nine
25 of this act, The undertaker shall deliver the burial permit to the
26 person in charge of the place of burial, before interring or other-
27 wise disposing of the body; or shall attach the removal permit
28 to the box containing the corpse when shipped by transportation
29 company; said permit to accompany the corpse to its destination,
30 where, if within the state of West Virginia, it shall be delivered
31 to the person in charge of the place of burial.

Sec. 10. That if the interment, or other disposition of the
2 body is to be made within the state, the wording of the burial
3 or removal permit may be limited to a statement by the regis-
4 trar, and over his signature, that a satisfactory certificate of
5 death having been filed with him as required by law, permission
6 is granted to inter, remove or otherwise dispose of the body, stat-
7 ing the name, age, sex, cause of death, and other necessary de-
8 tails upon the form prescribed by the state registrar.

Sec. 11. That no person in charge of any premises on which
2 interments are made shall inter or permit the interment or other
3 disposition of any body unless it is accompanied by a burial, re-
4 moval or transit permit, as herein provided. And such person
5 shall indorse upon the permit the date of interment, over his sig-
6 nature and shall return all permits so indorsed to the local regis-
7 trar of his district within ten days from the date of interment,
8 or within the time fixed by the local board of health; he shall
9 keep a record of all bodies interred or otherwise disposed of on

10 the premises under his charge, in each case stating the name of
11 each deceased person, place of death, date of burial or disposal,
12 and name and address of the undertaker; which record shall at
13 all times be open to official inspection; *provided*, that the under-
14 taker or person acting as such, when burying a body in a ceme-
15 tery or burial ground having no person in charge, shall sign
16 the burial or removal permit giving the date of burial, and shall
17 write across the face of the permit the words "No person in
18 charge," and file the burial or removal permit within ten days
19 with the registrar of the district in which the cemetery is
20 located.

Sec. 12. That the birth of each and every child born in this
2 state shall be registered as hereinafter provided.

Sec. 13. That within ten days after the date of each birth,
2 there shall be filed with the local registrar, of the district in
3 which the birth occurred a certificate of such birth, which certi-
4 ficate shall be upon the form adopted by the state department of
5 health with a view to procuring a full and accurate report with
6 respect to each item of information enumerated in section four-
7 teen of this act.

8 In each case where a physician, midwife, or person acting as
9 midwife was in attendance upon the birth, it shall be the duty of
10 such physician, midwife or person acting as midwife, to file in
11 accordance herewith the certificate herein contemplated.

12 In each case where there was no physician, midwife, or person
13 acting as midwife, in attendance upon the birth, it shall be the
14-15 duty of the father or mother of the child or the manager
16 or superintendent of the public or private institution where the
17 birth occurred, each in the order named within ten days after
18 the date of such birth, to report to the local registrar the fact
19 of such birth. In such case and in case the physician, midwife, or
20 person acting as midwife, in attendance upon the birth is unable
21 by diligent inquiry, to obtain any item or items of information
22 contemplated in section fourteen of this act, it shall be the duty
23 of the local registrar to secure from the person so reporting or
24 from any other person having the required knowledge such
25 information as will enable him to prepare the certificate of
26 birth herein contemplated, and it shall be the duty of the person
27 reporting the birth or who may be interrogated in relation there-
28 to to answer correctly and to the best of his knowledge, all ques-
29 tions put to him by the local registrar, which may be calculated

30 to elicit any information needed to make a complete record of
31 the birth as contemplated by said section fourteen, and it shall
32 be the duty of the informant as to any statement made in ac-
33 cordance herewith to verify such statement, by his signature when
34 requested so to do by the local registrar.

Sec. 14. That the certificate of birth shall contain the fol-
2 lowing items which are hereby declared necessary for the legal,
3 social and sanitary purposes subserved by registration records.

4 (1) Place of birth, including state, county, district, village
5 or city. If in a city, the ward, street, and house number; if in
6 a hospital or other institution, the name of the same to be given
7 instead of the street and house number.

8 (2) Full name of child. If the child dies without a name,
9 before the certificate is filed, enter the words "Died unnamed."
10 If the living child has not yet been named at the date of filing
11 certificate of birth, the space for "full name of child" is to be
12 left blank, to be filled out subsequently by a supplemental report,
13 as herein after provided.

14 (3) Sex of child.

15 (4) Whether a twin, triplet, or other plural birth. A
16 separate certificate shall be required for each child in case of
17 plural births.

18 (5) For plural births, number of each child in order of
19 birth.

20 (6) Whether legitimate or illegitimate.

21 (7) Date of birth, including the year, month and day.

22 (8) Full name of father.

23 (9) Residence of father.

24 (10) Color or race of father.

25 (11) Age of father at last birthday, in years.

26 (12) Birthplace of father; at least state or foreign coun-
27 try, if known.

28 (13) Occupation of father. The occupation to be reported
29 if engaged in any remunerative employment, with the statement
30 of:

31 (a) Trade, profession, or particular kind of work;

32 (b) General nature of industry, business or establishment
33 in which employed (or employer.)

34 (14) Maiden name of mother.

35 (15) Residence of mother.

36 (16) Color or race of mother.

- 37 (17) Age of mother at last birthday, in years.
38 (18) Birthplace of mother; at least state or foreign country,
39 if known.
40 (19) Occupation of mother. The occupation to be reported
41 if engaged in any remunerative employment, with the statement
42 of:
43 (a) Trade, profession, or particular kind of work;
44 (b) General nature of industry, business or establishment
45 in which employed (or employer).
46 (20) Whether or not prophylactic was used in each eye of the
47 child.
48 (21) Number of children born to this mother, including
49 present birth.
50 (22) Number of children of this mother living.
51 (23) The certification of attending physician or midwife as
52 to attendance at birth, including statement of year, month, day
53 (as given in item seven) and the hour of birth, and whether the
54 child was born alive or stillborn. This certification shall be
55 signed by the attending physician or midwife with the date of
56 signature and address; if there is no physician or midwife in at-
57 tendance then by the father or mother of the child, or manager or
58 superintendent of public or private institution where the birth oc-
59 curred, or other competent person whose duty it shall be to notify
60 the local registrar of such birth, as required by section thirteen of
61 this act.
62 (24) Exact date of filing in office of local registrar, attested
63 by his official signature, and registered number of birth, as here-
64 inafter provided.

Sec. 15. That when any certificate of birth of a living child
2 is presented without the statement of the given name, then the
3 local registrar shall make out and deliver to the parents of the
4 child a special blank for the supplemental report of the given
5 name of the child, which shall be filled out as directed, and re-
6 turned to the local registrar as soon as the child shall have been
7 named.

Sec. 16. That all superintendents or managers, or other per-
2 sons in charge of hospitals, almshouses, lying-in or other insti-
3 tutions, public or private, to which persons resort for treatment
4 of diseases, confinement, or are committed by process of law,
5 shall make a record of all the personal and statistical particu-
6 lars relative to the inmates in their institutions at the date of

7 approval of this act, which are required in the forms of the cer-
8 tificates provided for by this act, as directed by the state registrar;
9 and thereafter such record shall be, by them, made for all future
10 inmates at the time of their admittance. And in the case of
11 persons admitted for treatment of disease, the physician in
12 charge shall specify for entry in the record, the nature of the
13 disease, and where, in his opinion, it was contracted. The per-
14 sonal particulars, and information required by this section shall
15 be obtained from the individual himself if it is practicable to do
16 so; and when they can not be so obtained, they shall be obtained
17 in as complete a manner as possible from relatives, friends, or
18 other persons acquainted with the facts.

Sec. 17. That the state registrar shall prepare, print, and sup-
2 ply to all registrars, all blanks and forms necessary for the regis-
3 tering, recording, and preserving of the state records, and shall
4 prepare and issue such detailed instructions as may be required
5 to procure the uniform observance of its provisions and the main-
6 tenance of a perfect system of registration; and no other blanks
7 shall be used than those supplied by the state registrar. He shall
8 carefully examine the certificates received monthly from the local
9 registrars, and if any such are incomplete or unsatisfactory he
10 shall require such further information to be supplied as may be
11 necessary to make the record complete and satisfactory. And all
12 physicians, midwives, informants, or undertakers, and other per-
13 sons having knowledge of the facts, are hereby required to supply,
14 upon a form provided by the state registrar or upon the original
15 certificate, such information as they may possess regarding any
16 birth or death upon demand of the state registrar, in person, by
17 mail, or through the local registrar; *provided*, that no certificate
18 of birth or death, after its acceptance for registration by the local
19 registrar, and no other record made in pursuance of this act, shall
20 be altered or changed in any respect otherwise than by amendments
21 properly dated, signed and witnessed. The state registrar shall
22 further arrange, bind and permanently preserve the certificates in
23 a systematic manner, and shall prepare and maintain a compre-
24 hensive and continuous index of all births and deaths regis-
25 tered; said index to be arranged alphabetically, in the case of
26 deaths, by the names of decedents, and in the case of births, by
27 the name of the fathers and mothers. He shall inform all regis-
28 trars what diseases are to be considered infectious, contagious, or

29 communicable and dangerous to the public health, as decided by the
30 public health council, in order that when deaths occur from such
31 diseases proper precautions may be taken to prevent their spread.
32 If any cemetery company or association, or any church or historical
33 society or association, or any other company, society, or associa-
34 tion, or any individual, is in possession of any record of births or
35 deaths which may be of value in establishing the genealogy of any
36 resident of this state, such company, society, association or individ-
37 ual, may file such record, or a duly authenticated transcript
38 thereof with the state registrar, and it shall be the duty of the
39 state registrar to preserve such record or transcript and to make
40 a record and index thereof in such form as to facilitate the finding
41 of any information contained therein. Such record and index shall
42 be open to inspection by the public, subject to such reasonable
43 conditions as the state registrar may prescribe. If any person
44 desires a transcript of any record filed in accordance herewith, the
45 state registrar shall furnish the same upon application, together
46 with a certificate that it is a true copy of such record, as filed in
47 his office, and for his services in so furnishing such transcript and
48 certificate, he shall be entitled to a fee of fifty cents per hour or
49 fraction of an hour necessarily consumed in making such trans-
50 cript, and to a fee of twenty-five cents for the certificate, which fees
51 shall be paid by the applicant.

Sec. 18. That each local registrar shall supply blank forms of
2 certificates to such persons as require them. Each local registrar
3 shall carefully examine each certificate of birth or death when pre-
4 sented for record, in order to ascertain whether or not it has been
5 made out in accordance with the provisions of this act, and the
6 instructions of the state registrar; and if any certificate of death
7 is incomplete or unsatisfactory, it shall be his duty to call attention
8 to the defects in the return, and to withhold the burial or removal
9 permit until such defects are corrected. All certificates, either of
10 birth or of death, shall be written legibly, in durable black ink or
11 with a typewriter, and no certificate shall be held to be complete
12 and correct that does not supply all of the items of information
13 called for therein or satisfactorily account for their omission. If
14 the certificate of death is properly executed and complete, he shall
15 then issue a burial or removal permit to the undertaker; *provided*,
16 that in case the death occurred from some disease which is held by
17 the Public Health Council to be infectious, contagious, or com-

18 municable and dangerous to the public health, no permit for the
19 removal or other disposition of the body shall be issued by the reg-
20 istrar, except under such conditions as may be prescribed by the
21 state commissioner of health. If a certificate of birth is incomplete,
22 the local registrar shall immediately notify the informant, and
23 require him to supply the missing items of information if they can
24 be obtained. He shall number, consecutively, the certificates of
25 birth and death, in two separate series, beginning with number
26 one (1) for the first birth and the first death in each calendar
27 year, and sign his name as registrar in attest of the date of filing
28 in his office. He shall also make a complete and accurate copy of
29 each birth and each death certificate registered by him, which copy
30 shall be sent to the county clerk of the county in which the birth or
31 death occurs, to be used by that official in compiling a set of local
32 records. The local registrar shall, on or before the tenth day of
33 each month, transmit to the state registrar all original certificates
34 registered by him for the preceding month. And if no births or no
35 deaths occurred in any month, he shall, on the tenth day of the
36 following month, report that fact to the state registrar, on a card
37 provided for such purpose.

Sec. 19. That each local registrar shall be paid the sum of
2 twenty-five cents for each birth certificate and each death certifi-
3 cate properly and completely made out and registered with him,
4 and correctly recorded and promptly returned by him to the state
5 registrar, as required by this act. And in case no births or no
6 deaths were registered during any month, the local registrar shall
7 be entitled to be paid the sum of twenty-five cents for each report
8 to that effect, but only if such report be made promptly as required
9 by this act. All amounts payable to a local registrar under the pro-
10 visions of this section shall be paid by the treasurer of the county in
11 which the registration district is located, upon certification by the
12 state registrar. And the state registrar shall annually certify to
13 the treasurers of the several counties the number of births and
14 deaths properly registered, with the names of the local registrars
15 and the amounts due each at the rates fixed therein.

Sec. 20. That the state registrar shall, upon request, supply to
2 any applicant a certified copy of the record of any birth or death
3 registered under provisions of this act, for the making and certifi-
4 cation of which he shall be entitled to a fee of fifty cents, to be
5 paid by the applicant. And any such copy of the record of a

6 birth or death, when properly certified by the state registrar, shall
7 be *prima facie* evidence, in all courts and places, of the facts
8 therein stated. For any search of the files and records when no
9 certified copy is made, the state registrar shall be entitled to a
10 fee of fifty cents for each hour or fractional part of an hour of
11 time of search, said fee to be paid by the applicant. And the state
12 registrar shall keep a true and correct account of all fees by him
13 received under these provisions and turn the same over to the
14 state treasurer; *provided*, that the state registrar shall, upon
15 request, of any parent or guardian, supply without fee, a certificate
16 limited to a statement as to the date of birth of any child when the
17 same shall be necessary for admission to school, or for the purpose
18 of securing employment. And *provided further*, that the United
19 States Census Bureau may obtain, without expense to the state,
20 transcripts or certified copies of births and deaths without payment
21 of the fees herein prescribed.

Sec. 21. That all marriages taking place within the state shall
2 be registered with the state registrar of vital statistics, at the place
3 where records of births and deaths are filed, in the manner here-
4 inafter provided.

5 On or before the tenth day of each month the county clerk
6 of each county shall forward to the state registrar of vital statis-
7 tics a certified copy of all marriage records made by him during
8 the previous month.

9 The state registrar of vital statistics shall preserve and index
10 all records thus received and shall, when applied to, issue a certi-
11 fied copy of the same, which shall be *prima facie* evidence in all
12 courts in the state of the facts stated therein.

13 Every county clerk issuing a marriage license shall collect a fee
14 of at least one dollar as a state registration fee as provided in
15 section seven of chapter one hundred and thirty-seven of the code,
16 and all such fees so collected shall be paid into the state treasury.

17 Every person solemnizing a marriage shall take up the license
18 authorizing such marriage, and on or before the fifth of each month
19 shall forward to the county clerk issuing such license, all such li-
20 censes in his possession, with an endorsement thereon of the fact
21 of such marriage and the time and place of celebrating the same.

Sec. 22. That sections thirteen, fifteen, eighteen, nineteen,
2 twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-
3 five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty,

4 thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-
5 six, thirty-seven, thirty-eight, thirty-nine, of chapter sixty-three,
6 Barnes' code of West Virginia and sections twenty-three to twenty-
7 nine inclusive of chapter one hundred and fifty of Barnes' code of
8 West Virginia, together with all acts or parts of acts inconsistent
9 with the provisions of this act are hereby repealed.

Sec. 23. That any person, who for himself or as an officer,
2 agent, or employee of any other person, or of any corporation or
3 partnership,

4 (a) Shall inter, cremate, or otherwise finally dispose of the dead
5 body of a human being, or permit the same to be done, or shall re-
6 move said body from the primary registration district in which
7 the death occurred or the body was found without the authority
8 of a burial or removal permit issued by the local registrar of
9 the district in which the death occurred, or in which the body
10 was found; or

11 (b) Shall refuse or fail to furnish correctly any information
12 in his possession, or shall furnish false information affecting any
13 certificate or record, required by this act; or

14 (c) Shall wilfully alter, otherwise than is provided by sec-
15 tion seventeen of this act, or shall falsify any certificate of birth
16 or death or any record established by this act; or

17 (d) Being required by this act to fill out a certificate of
18 birth or death and file the same with the local registrar, or de-
19 liver it, upon request, to any person charged with the duty of
20 filing the same, shall fail, neglect, or refuse to perform such duty
21 in the manner required by this act; or

22 (e) Being a local registrar deputy registrar or subregistrar,
23 shall fail, neglect, or refuse to perform his duty as required by
24 this act and by the instructions and directions of the state regis-
25 trar thereunder, shall be deemed guilty of a misdemeanor and
26 upon conviction thereof shall be fined not less than one
27 nor more than five dollars. Justices of peace shall have concur-
28 rent jurisdiction to try and determine all offenses arising under
29 this act.

Sec. 24. That each local registrar is hereby charged with
2 the strict and thorough enforcement of the provision of this act
3 in his registration district, under the supervision and direction
4 of the state registrar. And he shall make an immediate report
5 to the state registrar of any violation of this law coming to his

6 knowledge, by observation or upon complaint of any person, or
7 otherwise.

8 The state registrar is hereby charged with the thorough and
9 efficient execution of the provisions of this act in every part of
10 the state, and is hereby granted supervisory power over local
11 registrars, deputy local registrars, and subregistrars, to the end
12 that all of its requirements shall be uniformly complied with.
13 The state registrar, either personally or by an accredited repre-
14 sentative, shall have authority to investigate cases of irregularity
15 or violation of law and all registrars shall aid him, upon request,
16 in such investigations. When he shall deem it necessary, he shall
17 report cases of violation of any of the provisions of this act
18 to the prosecuting attorney of the county, with a statement of
19 the facts and circumstances; and when any such case is reported
20 to him by the state registrar, the prosecuting attorney shall forth-
21 with initiate and promptly follow up the necessary court pro-
22 ceedings against the person or corporation responsible for the
23 alleged violation of law.

House Bill No. 45

(House Bill No. 45—Mr. Howard.)

AN ACT relating to mouth hygiene and the treatment of pupils in
the public schools, the same to be section sixty-four-a of chapter
two of the acts of nineteen hundred and nineteen, regular session.
Be it enacted by the Legislature of West Virginia:

That chapter forty-five of the code, as amended by section sixty-
four of chapter two of the acts of one thousand nine hundred and
nineteen, be amended and re-enacted by adding thereto section sixty-
four-a.

Section 64-a. The board of education in any school district may,
2 at its discretion, establish and maintain dental clinics or courses
3 for teaching mouth hygiene; and may provide for and furnish
4 treatment, if requested by the parent or guardian or deemed
5 necessary by the board of education, of such children who have
6 defective teeth or mouth conditions, and who shall be found by
7 such board of education, or persons deputed for that purpose, to
8 be unable otherwise to procure such treatment. Any expense
9 incurred in connection herewith shall be paid out of the mainte-
10 nance building fund of said district.

House Bill No. 485

(Committee Substitute for House Bill No. 485.)

(Committee on Medicine and Sanitation.)

AN ACT to provide for the licensing of dental hygienists and regulating the practice of same.

Be it enacted by the Legislature of West Virginia:

Section 1. Any registered or licensed dentists may employ 2 assistants who shall be known as dental hygienists. Such dental 3 hygienists may remove the lime deposits, accretions and stains 4 from the exposed surfaces of the teeth and directly beneath the 5 free margin of the gum, or administer preliminary or post operative treatment for any dento-surgical operation, or administer 7 prophylactic treatment to teeth and gums, but shall not perform 8 any other operation on the teeth or on any diseased tissues of the 9 mouth. They may practice in the office of any registered or 10 licensed dentists under his direct supervision or in any industrial 11 clinic, school clinic or state institutional clinic where they may 12 practice under the general supervision of a registered or licensed 13 dentist. The state board of dental examiners may revoke the 14 license of any dental hygienist who shall perform any operation 15 other than that permitted under the provisions of this section.

Sec. 2. No person shall enter practice as a dental hygienist 2 in this state until he or she has passed an examination given 3 them by the board of dental examiners of this state, under such 4 rules and regulations as it may deem fit and proper to formulate. The fee for said examination shall be ten dollars, (\$10.00), 6 and any applicant failing to pass such examination shall be entitled to one additional examination without further cost. The 8 fee for such re-examination after the first shall be five dollars, 9 (\$5.00). The said board of dental examiners shall issue certificates of ability to practice as dental hygienists in this state to 11 those who have passed such examination; *provided, however,* that 12 no person shall be entitled to such certificate unless they shall at 13 least be eighteen years of age, of good moral character, and shall 14 be a graduate of a class "A" high school or its equivalent and a 15 graduate of a training school for dental hygienists approved by 16 state board of dental examiners, or where the applicant is not permitted to attend such school for dental hygienists which may be 18 approved by said board, then said certificates shall be issued as

19 herein provided, which shall entitle all those to practice as dental
20 hygienists in this state who may possess all other requirements
21 herein mentioned and pass the required examination.

Sec. 2-b. It is further provided that any person acting as an
2 assistant to any licensed dentists in this state for two consecu-
3 tive years or more previous to this bill becoming a law in effect
4 shall be eligible to examination for dental hygienist without
5 further requirements; *provided*, application for such examination
6 be made within six months after the passage of this act.

Sec. 2-c. The examination of applicants shall be both practi-
2 cal and theoretical, as follows:

3 *Practical Examination.*

4 Each applicant must bring a patient upon whose teeth tartar
5 deposits can be distinctly seen. The patient must have at least
6 twenty-four (24) natural teeth present in the mouth. No attempt
7 must be made to cleanse the mouth previous to the examination.

8 The examination will consist of (a) scaling and polishing the
9 teeth of this patient; (b) instructing the patient on the home
10 care of the mouth, including instruction in the use of the tooth
11 brush; (c) oral quizzing by the examiners.

12 The applicant must come provided with suitable instruments
13 and accessories, including two tooth brushes, to perform the above-
14 mentioned operations.

15 Chairs, tables and cuspidors only will be furnished by the board.

16 *Theoretical Examination.*

17 (1) anatomy; (2) physiology; (3) dental histology; (4) bac-
18 teriology and sterilization; (5) dental caries and malocclusion;
19 (6) oral prophylaxis.

Sec. 3. The board of dental examiners of this state may, at its
2 discretion, without the examination as herein provided, issue its
3 certificate to any applicant therefor who shall furnish proof satis-
4 factory to said board that they have been duly licensed to prac-
5 tice as a dental hygienist in another state after full compliance
6 with the requirements of its dental laws; *provided, however*, that
7 their professional and preliminary education shall not be less than
8 that required in this state, and that they have been in active prac-
9 tice at least two years previous to their application for certificate.
10 The board of dental examiners may revoke the registration and

11 license of any dental hygienist violating any provision of this act.

Sec. 3-a. Any person who shall practice as a dental hygienist
2 without first having complied with the provisions of this act shall
3 be guilty of a misdemeanor, and upon conviction thereof, shall be
4 fined not less than fifty dollars (\$50.00) and not more than five-
5 hundred dollars (\$500.00), and may be imprisoned not more
6 than thirty (30) days, or both, at the discretion of the court,
7 to which fine shall be added the costs of the prosecution.

Sec. 3-b. Any person other than a regularly licensed dentist
2 shall be said to be practicing dental hygiene within the meaning
3 of this act, who shall remove deposits, accretions and stains from
4 the exposed surface of the teeth and polish same, or who shall
5 practice the use of escharotic drugs in or about the teeth, or who
6 shall make dental examination of teeth and diagnosis disease of
7 same.

Sec. 4. All acts and parts of acts inconsistent herewith are
2 hereby repealed.

House Bill No. 376

(House Bill No. 376—Mr. Hersman, of Roane.)

AN ACT providing for the payment to the county commissioners for
services performed, other than for services in court, in counties
having a population of less than twenty-five thousand inhabitants.

Be it enacted by the Legislature of West Virginia:

Section 1. There shall be allowed and paid out of the county
2 treasury, as other salaries are paid, beginning on the first day of
3 January, one thousand nine hundred and twenty-one, to each
4 county commissioner in each county, which has now, or may have
5 at any decennial census of the United States, less than twenty-
6 five thousand inhabitants, for services performed for such county,
7 concerning roads, bridges and other county business by said com-
8 missioners (other than services in court) the sum of twenty-five
9 dollars per month for each month of their terms of service re-
10 spectively. *Provided*, that in any county where there are more
11 than three commissioners the amount such commissioner in such
12 county shall receive shall not in the aggregate exceed the amount
13 herein provided to be paid on a basis of three commissioners.

Sec 2. It shall be the duty of the county commissioners in each
2 of such counties to visit and inspect monthly, and oftener if needed
3 all roads and bridge construction therein, and from time to time
4 to visit and inspect all the roads of the county and the county in-
5 firmary or poor farm.

Sec. 3. All acts and parts of acts in conflict herewith are here-
2 by repealed.

House Bill No. 492

(House Bill No. 492—Mr. Hutchinson.)

AN ACT to amend and re-enact section twenty-eight, chapter forty-
seven, Barnes' code, one thousand nine hundred and eighteen,
relating to the powers of municipal corporations chartered under
said chapter.

Be it enacted by the Legislature of West Virginia:

That section twenty-eight of chapter forty-seven of Barnes' code of
West Virginia, one thousand nine hundred and eighteen, relating to the
powers of municipal corporations, be and the same is hereby amended
and re-enacted so as to read as follows:

Section 28. The council of such city, town or village
2 shall have plenary power and authority therein to lay
3 off, vacate, close, open, alter, curb, pave and keep in good repair,
4 roads, streets, alleys, sidewalks crosswalks, drains and gutters,
5 for the use of the public, or any of the citizens thereof, and to im-
6 prove and light the same, and have them kept free from obstruc-
6-a tions on or over them; to regulate the width of sidewalks on the
7 streets, and to order the sidewalks, footways, crosswalks, drains
8 and gutters to be curbed and paved and kept in good order, free
9 and clean, by the owners or occupants thereon, or of the real
10 property next adjacent thereto; to establish and regulate markets,
11 to prescribe the time of holding the same; to prevent injury or
12 annoyance to the public or individuals from anything dangerous,
13 offensive or unwholesome; to prevent hogs, cattle, horses, sheep
14 or other animals, and fowls of all kinds, from going at large in
15 said city, town or village; to protect places of divine worship in
16 and about the premises where held; to arrest, convict and punish
17 any person for keeping a house of ill-fame, or for leasing or letting
18 to another person any house or other building for the purpose of

19 being used or kept as a house of ill-fame, or knowingly permitting
20 any house owned by him or under his control, to be kept or used
21 as a house of ill-fame, or loafing, boarding or loitering in a house
22 of ill-fame, or frequenting same; to arrest, convict and punish
23 any person for importing, printing, publishing, selling or dis-
24 tributing any book or other thing containing obscene language; to
25 arrest, convict and punish any person for cruelty, unnecessarily
26 or needlessly beating, torturing, mutilating, killing or over-load-
27 ing and over-driving, or wilfully depriving of necessary suste-
28 nance, any horse or other domestic animal; to arrest, convict and
29 punish any person for gambling or keeping gaming tables, com-
30 monly called A, B, C, or E, O, table or faro bank or keno table,
31 or table of like kind, under any denomination, whether the
32 game table be played with cards, dice or otherwise, or shall be a
33 partner or concerned in interest, in the keeping or exhibiting such
34 table or bank, or keeping or maintaining any gaming house or
35 place, or betting or gambling for money or anything of value;
36 to license, or prohibit, the operation of pool and billiard rooms and
37 maintaining for hire of pool and billiard tables, and in event any
38 such business is licensed in such town, to make and enforce reason-
39 able ordinances regulating the same; to arrest, convict and punish
40 any person for carrying about his person any revolver or other pis-
41 tol, dirk, bowie-knife, razor, slung-shot, billy, metallic or other
42 false knuckles, or any other dangerous or other deadly weapon of
43 like kind or character; to provide penalties for the offenses and
44 violations of law mentioned herein an addition to the penalties
45 provided in section twenty-nine of this chapter but which shall not
46 exceed the penalties provided for like offenses and violations in
47 this chapter and in chapters one hundred and forty-eight, one
48 hundred and forty-nine and one hundred and fifty-one of the code
49 of West Virginia, of one thousand eight hundred and ninety-
50 nine; to abate or cause to be abated anything which, in the opinion
51 of a majority of the whole council, shall be a nuisance; to regu-
52 late the keeping of gun-powder and other combustibles; to acquire
53 by purchase, condemnation and otherwise, land in or near the
54 city, town or village for providing and maintaining proper
55 places for the burial of the dead and to regulate interments there-
56 in upon such terms and conditions as to price and otherwise as
57 may be determined; and in order to carry into effect
58 the foregoing provisions the council may acquire any cem-

59 erty or cemeteries already established to provide for the regu-
60 lar building of houses or other structures, and for making of
61 division fences by the owners of adjacent premises and the drain-
62 age of lots by the proper drains and ditches; to make regula-
63 tions guarding against danger or damage by fire; to prevent
64 the illegal sale of all intoxicating liquors, drinks, mixtures and
65 preparation therein; to protect the persons and property of the
66 citizens of such city, town or village, and to preserve peace and
67 good order therein, and for this purpose to appoint when nec-
68 essary a police force to assist the sergeant in the discharge of his
69 duties; to prescribe the powers and define the duties of the officers
70 appoint by the council, fix their terms of service and compen-
71 sation, require and take from them bonds, when deemed necessary,
72 payable to such city, town or village, in its corporate name, with
73 such sureties and in such penalty as the council may see fit,
74 conditioned for the faithful discharge of their duties; to erect, or
75 authorize or prohibit the erection of gas works, electric light
76 works or water works in the city, town or village; to prevent injury
77 to or pollution of the same, or to the water or healthfulness
78 thereof; to regulate and provide for the weighing of hay, coal
79 and other articles sold or for sale in the city, town or village; to
80 provide a revenue for the city, town or village, and appropriate the
81 same to its expenses; to provide for the annual assessment of tax-
82 able personal property therein; to impose a license tax on persons
83 or companies keeping for hire carriages, hacks, buggies, or wagons,
84 or for carrying passengers for pay in any such vehicle, in such
85 city, town or village; to adopt rules for the transaction of bus-
86 iness, and the government and regulations of its own body.

House Bill No. 423

(House Bill No. 423—Mr. Davis, of Taylor.)

AN ACT to prohibit children placed in the West Virginia industrial school for boys and the West Virginia industrial home for girls working in the industries of this state without first securing permits as provided by the child labor law.

Be it enacted by the Legislature of West Virginia:

Section 1. It shall be unlawful for superintendents or other

2 persons in whose custody children of the West Virginia indus-
3 trial school for boys and West Virginia industrial home for girls
4 are placed to permit said children to be employed in the fac-
5 tories or workshops outside of these institutions without first se-
6 curing for them the permits required by the child labor law of
7 West Virginia.

House Bill No. 53

(House Bill No. 53—Mr. Nutter.)

AN ACT providing for the establishment of the state industrial
home for colored girls.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby established a state institution to
2 be known as the state industrial home for colored girls. It shall
3 belong to that class of institutions mentioned in section three of
4 chapter fifty-eight of the acts of one thousand nine hundred and
5 nine, and shall be managed and controlled as provided in said act,
6 all the provisions whereof shall be as applicable to said home as
7 if the same were named in said section three of said act. The
8 chief executive officer thereof shall be the superintendent, who
9 shall be a citizen of the state of West Virginia, and a person of
10 good executive ability, and shall be appointed by the governor with
11 the advice and consent of the senate.

Sec. 2. The state board of control and the advisory
2 council to the state board of education, shall jointly se-
3 lect a suitable site for such home and provide plans
4 for the necessary buildings as soon as practicable after this
5 act shall go into effect; and thereafter all the provisions of said
6 chapter fifty-eight of the acts of one thousand nine hundred and
7 nine, and of chapter twenty-seven of the acts of one thousand nine
8 hundred and eight and of chapter forty-five of Barnes' code of one
9 thousand nine hundred and sixteen shall govern herein as far as
10 applicable.

Sec. 3. Girls eligible to be received into said home are those
2 who are from seven to eighteen years of age, and who may be com-
3 mitted by any justice of the peace of this state, on complaint and
4 due proof made to him by the parents, guardian or next friend of

5 such girl, that by reason of incorrigible or vicious conduct, such
6 girl has rendered her control beyond the power of such parent,
7 guardian or next friend, and made it manifestly best that such
8 girl should be placed in said home; or by any criminal, circuit
9 or intermediate court of this state. Girls may be so committed
10 for vagrancy up to eighteen years of age, or where parents, guard-
11 ian or next friend agree and contract with the board of control
12 for their support and maintenance, or girls up to fifteen years of
13 age, who may be found in houses of ill fame or assignation houses,
14 upon conviction thereof before any justice of the peace, mayor of
15 a town or city; or girls convicted by any of the courts of this
16 state of felony or misdemeanor, punishable by imprisonment, the
17 judge in his discretion, instead of confining such girl in the county
18 jail or sending her to the penitentiary, may transfer such girl so
19 convicted to said home, from any county of this state; *provided*
20 there is room there for such girl. Every girl committed to said
21 home shall remain there until she is twenty-one years of age,
22 unless sooner discharged.

Sec. 4. The state board of education and the advisory council
2 thereto shall have supervision and control over the educational
3 affairs of this institution.

House Bill No. 54

(House Bill No. 54—Mr. Nutter.)

AN ACT providing for the establishment of the state industrial
school for colored boys.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby established a state institution to
2 be known as the state industrial school for colored boys. It shall
3 belong to that class of institutions mentioned in section three of
4 chapter fifty-eight of the acts of one thousand nine hundred and
5 nine, and shall be managed and controlled as provided in said
6 act, all the provisions whereof shall be as applicable to said school
7 as if the same were named in said section three of said act. The
8 chief executive officer thereof shall be the superintendent, who
9 shall be a citizen of the state of West Virginia, and a person of good

10 executive ability, and shall be appointed by the governor with the
11 advice and consent of the senate.

Sec. 2. The state board of control and the advisory
2 council to the state board of education shall jointly se-
3 lect a suitable site for such school and provide plans
4 for the necessary buildings as soon as practicable after
5 this act shall go into effect; and thereafter all provisions of said
6 chapter fifty-eight of the acts of one thousand nine hundred and
7 nine, and of chapter seventy of the acts of one thousand nine hun-
8 dred and thirteen and chapter forty-five of Barnes' code of one
9 thousand nine hundred and sixteen shall govern herein as far
10 as applicable.

Sec. 3. Any male youth under the age of eighteen, and not
2 under the age of ten years, may be committed to and received into
3 the state industrial school for colored boys, for the reason and in
4 the manner following: (a) By a justice of the peace of the
5 county in which he resides, on complaint under oath and due proof
6 made to him by the parent, guardian or other persons having the
7 custody and control of such youth, that by reason of incorrigible
8 or vicious conduct such youth has rendered his control beyond
9 the power of the parent, or guardian or such other person, and
10 made it manifestly requisite that, from regard for the morals and
11 future welfare of such youth and the peace and order of society,
12 he shall be placed in said school. (b) By the same authority,
13 upon complaint under oath, and due proof before the justice that
14 such youth is a vagrant, incorrigible or vicious in disposition and
15 conduct, and that his parents, guardian, or other person having
16 custody of or authority to control him, are depraved or otherwise
17 unfit, unwilling or unable to exercise care or discipline over such
18 youth.

Sec. 4. Whenever any male youth under the age of eighteen
2 years, shall be convicted in any of the courts of this state of felony
3 or a misdemeanor, punishable by imprisonment, the judge of said
4 court in his discretion, and with reference to the character of the
5 industrial school as a place of correction and not punishment, in-
6 stead of sentencing said youth to be confined in the penitentiary or
7 county jail, may order him to be removed to and confined in the
8 said industrial school, to remain until he shall have arrived at the
9 age of twenty-one years, unless sooner discharged by the state
10 board of control. Male youth under eighteen years of age, con-

11 victed in any of the courts of the United States for the districts
12 of West Virginia, of any offense punishable by imprisonment, may
13 also be received into said industrial school upon such regulations
14 and such terms as to their maintenance and support as may be
15 prescribed by the state board of control, and assented to by the
16 proper authorities of the United States.

Sec. 5. The state board of education and the advisory board
2 thereto shall have supervision and control over the educational
3 affairs of said school.

House Bill No. 196

(House Bill No. 196—Mr. McClintic, of Kanawha.)

AN ACT to provide for the employment of counsel in counties with a
population of one hundred thousand or more for the purpose of
furnishing legal advice to the county court, to conduct litigation
of a civil character to which the county court is a party and
to fix the compensation of such counsel.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of any county, having a popula-
2 tion, according to the last official census of one hundred thousand
3 or more, together with the judge of the circuit court of such
4 county, shall have authority to employ such legal counsel as they
5 may deem necessary for the purpose of advising such county court
6 touching all matters of a civil character and to conduct any litigation
7 of a civil character to which the county is a party. The
8 county court shall also have authority to fix the compensation of
9 any counsel so employed which shall not exceed the sum of four
10 thousand dollars annually and to pay the same out of the county
11 treasury. Any such counsel so employed may be removed at the
12 pleasure of the county court.

House Bill No. 246

(House Bill No. 246—Mr. McClintic, of Kanawha.)

AN ACT to create a commission, known as the "State Sinking Fund
Commission", and to prescribe its powers and duties relating to

administering interest and sinking funds for the bond issues of the several counties, districts, school districts, independent school district and municipalities of the state.

Be it enacted by the Legislature of West Virginia:

Section 1. A commission to be known as the "State Sinking Fund Commission" is hereby created. The state tax commissioner, secretary of state, state auditor and state treasurer shall be *ex officio* members of and constitute said commission. The state tax commissioner shall be chairman and the secretary of state, secretary of said commission. A minute record shall be kept by said commission, in which shall be entered a record of all of its proceedings.

Sec. 2. The commission is hereby authorized to employ an assistant secretary and such other employees as may be necessary to carry out the purposes of this act, who shall hold their positions at the pleasure of the commission. All expenses incurred by the commission in the administration of this act, including traveling expenses, when absent from the capital and engaged in the business of the commission, shall be paid as other claims against the state out of any appropriations made by the legislature for such purpose.

Sec. 3. It shall be the duty of the state sinking fund commission to administer all interest and sinking funds required for the bond issues of the several counties, districts, school districts, independent school districts and municipalities of the state.

Sec. 4. It shall be the duty of said commission to keep all sinking funds, under its control, invested. The sinking fund shall be first invested in the taxing districts' own bonds, if the same are available for purchase. If no such bonds can be purchased for investment or retirement, then it shall be the duty of the commission to invest the sinking funds in bonds issued by other taxing districts of the state. *Provided, however,* that the bonds so purchased mature before the bonds mature for which the sinking fund was created. Before any bond shall be purchased by said commission, either for investment or retirement (unless the same mature according to the condition of the bond), the purchase must be authorized by a recorded vote of said commission, showing the approval of three-fourths of all the members. No bond shall be purchased at a greater rate than par and accrued interest. The interest fund shall be used for the purpose of paying the interest on the outstanding bonds as the same falls due.

Sec. 5. Separate accounts shall be kept for each bond issue of each taxing district of the state, showing in detail all receipts and disbursements. Every six months, said commission shall render to each taxing district of the state, having outstanding bonds, a statement showing the condition of its interest and sinking funds, together with all receipts and disbursements of the preceding six months. At the same time the commission shall surrender to the taxing district the coupons and bonds paid, which have been cancelled. All bonds purchased by the commission as an investment for the funds shall remain in the custody of the state treasurer, until the same mature and are cancelled.

Sec. 6. The commission shall, annually, at least thirty days before the time for making up the estimate for levy purposes, render to each taxing district having outstanding bonds, a statement showing the levy required to pay the interest on and create a sinking fund for the retirement of the district's outstanding bonds.

The officers of each taxing district having outstanding bonds or issuing bonds shall make reports relating thereto to the state sinking fund commission, in the manner and form prescribed by the chief inspector and supervisor of public offices.

Sec. 7. All interest or interest coupons and bonds (at their maturity) of the several taxing districts of the state shall be payable at the office of the state treasurer out of the fund provided by section eight of this act.

Sec. 8. All interest and sinking funds on hand July first of each year and belonging to the counties, districts, school districts, independent school districts or municipalities of the state, shall be by the treasurer or collector thereof, not later than the following December, deposited in a state depository within the county or within the district or municipality, if there be a state depository therein, to the credit of the state. *Provided, however,* that one-half of all interest and sinking funds on hand July first, nineteen hundred and twenty-one, shall be so deposited in a state depository not later than the following December, and the balance not later than the following June.

Whenever the amount deposited to the credit of the state for any taxing district is not sufficient to meet the interest falling due, it shall be the duty of the treasurer or collector of said taxing district to remit a sufficient amount, of interest and sinking funds

16 that may be in his hands, to meet the interest then due upon being
17 notified of the fact by the state sinking fund commission.

18 Interest and sinking funds, collected by state officers on account
19 of the bond issues of the taxing districts of the state, shall be paid
20 into or placed to the credit of the state interest and sinking fund
21 at the same time as other taxes are paid to the taxing districts.

22 The state auditor and state treasurer shall carry an account to
23 be known as the state interest and sinking fund. All of said
24 deposits shall be carried as a part of said fund.

Sec. 9. It shall be the duty of every county, district, school
2 district, independent school district or municipality issuing
3 any bonds to offer the same in writing to the state
4 sinking fund commission, prior to advertising the same
5 for sale, and the state sinking fund commission shall,
6 within twenty days after receiving such offer, accept the same and
7 purchase said bonds or any portion of same at par and accrued in-
8 terest or reject such offer. *Provided, however,* that nothing in
9 this act shall prohibit the state board of public works from pur-
10 chasing bonds as an investment of the workmen's compensation
11 fund as provided by the workmen's compensation act. The offer
12 to and the acceptance by the state sinking fund commission shall
13 be contingent to the right of the board of public works to first
14 purchase.

Sec. 10. This act shall not apply to any bond issue in this state
2 heretofore made, wherein the ordinance or order of the taxing
3 body issuing the same contains a provision, conditioned by the
4 bond, for a special administration of the interest and sinking
5 funds, which would be inconsistent with the provisions of this
6 act.

7 All acts or parts of acts inconsistent with this act are hereby
8 repealed.

House Bill No. 274

(House Bill No. 274—Mr. Zimmerman.)

AN ACT to amend and re-enact section one of chapter sixty of the
acts of the legislature of West Virginia at the regular session of
one thousand nine hundred and seventeen, authorizing additional
levies for the completion of a new court house in any county, or

to make permanent repairs to any court house now in use, and to complete the same under existing law.

Be it enacted by the Legislature of West Virginia:

That section one of chapter sixty of the acts of the legislature of West Virginia at the regular session of one thousand nine hundred and seventeen be amended and re-enacted to read as follows:

Section 1. That the county court of any county wherein the construction of a new court house has been begun, or any court house now in use is in need of permanent repairs, and for which the levies provided for in chapter ninety-two of the acts of the regular session of one thousand nine hundred and fifteen will not raise sufficient money to complete such court house, or make permanent repairs to any court house now in use, may, in addition to the levies provided for in the chapter aforesaid, lay a special building levy annually, not to exceed thirty cents on the one hundred dollars valuation on the taxable property in said county, for such number of years as may be necessary, for the sole purpose of raising funds to complete such new court house, or to make permanent repairs to any court house now in use.

Hoose Bill No. 304

(House Bill No. 304—Mr. McClintic, of Kanawha.)

AN ACT to amend and re-enact section eighty-one-a-twelve of chapter fifty-four of the code of West Virginia of one thousand nine hundred and sixteen, relating to compensation and fees of the commissioner of banking and assistants.

Be it enacted by the Legislature of West Virginia:

That section eighty-one-a-twelve of chapter fifty-four of the code of West Virginia, one thousand nine hundred and sixteen, be amended and re-enacted so as to read as follows:

Section 81-a-12. For making such examinations and for preparing and preserving all records and reports contemplated in this act, the said commissioner of banking shall be paid the sum of five thousand dollars per annum salary, and necessary expenses out of the state treasury by proper warrant drawn by the auditor upon the treasurer, and the three assistant commissioners of bank-

7 ing shall each receive the sum of thirty-five hundred dollars per
8 annum salary, and necessary expenses payable upon like warrants.
9 There shall be paid by each of said banks, savings banks, banking
10 associations, trust companies and other institutions operating un-
11 der the banking laws of this state, in payment for examination
12 made by said commissioner of banking or his assistants, to the state
13 as follows: For the first twenty-five thousand dollars of assets, as
14 shown by the books thereof on the day of examination, forty dol-
15-16 lars, and two cents for each additional one thousand dollars of
17 assets. There shall be paid by each of said building and loan as-
18 sociations and other institutions operating under the building
19 and loan laws of this state, in payment for examinations made
20 by the commissioner of banking or his assistants to the state as fol-
21 lows: For the first one hundred thousand dollars of assets, as
22 shown by the books thereof on the day of examination, twenty-
23 five dollars, and two cents for each additional one thousand dol-
24 lars of assets; and said commissioner of banking shall collect all
25 such fees and pay the same into the state treasury. *Provided,*
26 that the state banking commissioner is hereby given authority to ap-
27 point one additional assistant commissioner to those provided for
28 in section eighty-one-a-one, chapter fifty-four of Barnes' code of
29 West Virginia, whose qualifications shall be the same as prescribed
30 for the other assistant commissioners, whose specific duty shall be
31 to examine, under the supervision of the commissioner of banking
32 at least twice in each year all building and loan associations doing
33 business in this state, in addition to such other duties as may be
34 assigned him by the said banking commissioner. The salary of
35 such commissioner shall be the same as provided for assistant com-
36 missioners in another part of this section.

House Bill No. 375

(Committee Substitute for House Bill No. 375.)

(By the Committee on Taxation and Finance.)

AN ACT providing for the payment to the county commissioners for services performed, other than for services in court, in counties having a population of twenty-five thousand or more inhabitants.

Be it enacted by the Legislature of West Virginia:

Section 1. There shall be allowed and paid out of the county

2 treasury, as other salaries are paid, beginning on the first day
3 of January, 1921, to each county commissioner in each county,
4 which has now or may have at any decennial census of the United
5 States at least the number of twenty-five thousand inhab-
6 itants or more, for services performed for such coun-
7 ty, concerning roads, bridges and other county busi-
8 ness by said commissioners (other than services in court)
9 the following sums of money, to-wit: For each county
10 having one hundred thousand inhabitants or more the
11 sum of two hundred and fifty dollars per month for each month
12 of their term of service, respectively, and for each county which
13 has more than fifty thousand and less than one hundred thousand
14 inhabitants at such census, the sum of two hundred dollars per
15 month for each month of their term of service, respectively, and
16 for each county which has more than thirty thousand and less
17 than fifty thousand inhabitants, the sum of one hundred dollars
18 per month for each month of their term of service respectively,
19 and for each county that has more than twenty-five thousand and
20 less than thirty thousand inhabitants and not more than three
21 commissioners, the sum of twenty-five dollars per month for each
month of their term of service, respectively.

Sec. 2. It shall be the duty of the county commissioners of
2 each such counties to visit and inspect monthly, and oftener if
3 needed, all road and bridge construction therein, and from time
4 to time to visit and inspect all the roads of the county and the
5 county infirmary or poor farm.

Sec. 3. All acts and parts of acts in conflict herewith are here-
2 by repealed.

House Bill No. 533

(House Bill No. 533—Mr. McClintic, of Kanawha.)

AN ACT to provide for the control and management of the law book
library, now known as the "State Library" at Charleston, and
for the appointment of such persons as may be necessary for
those purposes.

Be it enacted by the Legislature of West Virginia:

Section 1. The law book library now in the building known as

2 the "Capitol Annex", in the city of Charleston, and usually called
3 the "State Library," shall on and after the first day of July, one
4 thousand nine hundred and twenty-one, be wholly under the con-
5 trol and management and in the custody of the supreme court of
6 appeals.

Sec. 2. The supreme court of appeals, or the judges thereof in
3 vacation, shall appoint a competent librarian to have the imme-
3 diate custody and charge thereof under the direction of the court.
4 Such librarian shall give bond in the penalty fixed by the court of
5 not less than two nor more than five thousand dollars, with surety
6 thereon, to be approved by the court, and conditioned as provided
7 for official bonds in chapter ten of the code. Such bond shall be
8 deposited for safe keeping with the clerk of the court. Such li-
9 brarian shall be an officer of the court and shall hold his office and
10 be removable at the pleasure of the court. Vacancies in the office
11 of librarian occurring during a vacation of the court may be filled
12 by appointment in writing made by the judges of the court, or any
13 three of them. When, in the opinion of the court, other employees
14 are needed for the proper protection and use of the library, it may
15 employ such assistants as may be necessary for that purpose. The
16 salary of the librarian shall be the sum of three thousand dollars
17 per annum payable in monthly installments, and the expense of
18 such assistants shall be fixed by the court and shall be paid upon
19 order of the court.

Sec. 3. The library shall be open under such rules and regu-
2 lations as may be, from time to time, prescribed by the court, and
3 it shall be the duty of the court to adopt and cause to be published,
4 as other rules of the court are published, such rules and regula-
5 tions.

Sec. 4. The librarian shall keep full and complete account
2 of all money transactions in connection with such library and re-
3 ceipt of all books therein, and shall perform such other duties in
4 connection therewith as may be ordered by the court. The li-
5 brarian shall make an annual report to the court within thirty
6 days after the close of each fiscal year, in which he shall state the
7 number of copies of reports and session acts received by him, and
8 what disposition he made thereof, and also what money came into
9 his hands, and from what sources, during the preceding fiscal year.

Sec. 5. The librarian shall have charge of the reports of the
2 supreme court of appeals after the same are printed and bound

3 and approved by the reporter, and he shall secure the copyright
4 of the same in the name of and for the benefit of the state. As
5 soon as practicable after any new volume of such reports has been
6 delivered to him, not including reprints of former volumes, he
7 shall dispose of the same as follows: ten copies to the college of
8 law of West Virginia University, one copy to the governor, two
9 copies to the attorney general, one copy to the judge of every court
10 of this state and one copy to the head of each of the subordinate ex-
11 ecutive departments at the state capital, one copy to the public ser-
12 vice commission, one copy to the state board of control, one copy
13 to the adjutant general, two copies to the department of archives
14 and history, and one copy to each of any other administrative
15 boards or commissions at the state capital. The librarian shall
16 place five copies in the state law library at Charleston, and send
17 five copies in the congressional law library at Washington, District
18 of Columbia. He shall also arrange as far as possible to exchange
19 four copies of each volume of said report for a like number of
20 copies of the current volumes of the report of the court of appeals
21 of each of the states, which said last reports he shall send one each
22 to the state law library at Charleston, to the college of law of West
23 Virginia University, to the association at Charles Town, and to the
24 Ohio county library at Wheeling. The remaining copies of said
25 reports of the supreme court of appeals the librarian shall deliver
26 to the secretary of state, to be disposed of by said secretary as pro-
27 vided by law; *provided*, that the governor may, in writing, cause
28 additional copies of said reports to be furnished to any officer,
29 court, institution or board now entitled to one or more copies; and
30 he may also cause one or more copies of said reports to be fur-
31 nished to any officer, board, commission, institution or tribunal not
32 named herein. The copies of said reports furnished to any officer
33 or judge, or library, or board shall remain the property of the
34 state of West Virginia, and as to any such judge or officer the copy
35 received by him shall be turned over to his successor in office. The
36 copies furnished to any library, board or commission shall be
37 safely kept therein.

Sec. 6. The supreme court of appeals shall have the power and
2 duty of purchasing such new and additional books for the library
3 as in its opinion shall be proper and right and shall cause such ex-
4 changes or sales of books to be made as may be for the benefit of
5 the library, and, in general, the court shall cause to be done and

6 performed all things necessary and proper to keep the books of
7 such library in good condition, and for that purpose may cause
8 such catalogs to be made as may be proper, and all expenses nec-
9 essarily incurred under the order of the court for the purposes of
10 this act, including postage, freight and express charges, shall be
11 paid out of appropriations for that purpose under the order of the
12 court.

Sec. 7. All acts and parts of acts in conflict herewith are here-
2 by repealed.

House Bill No. 538

(House Bill No. 538—Mr. McClintic, of Kanawha.)

AN ACT allowing counties of more than one hundred thousand popu-
lation to lay a special levy to purchase land and erect a jail and
jailer's residence thereon and put any additions or repairs to
the court house thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. That in counties having more than one hundred
2 thousand population, as shown by the last preceding census taken
3 by the United States government, the county court may for any
4 two consecutive years hereafter, for the sole purpose of purchasing
5 land by condemnation or otherwise, and erecting a jail and
6 jailer's residence thereon, and making additions to the court house
7 or repairing the same, lay a special levy not exceeding ten cents
8 in any one year on the one hundred dollars valuation on the
9 taxable property in such county, under the provisions of the con-
10 stitution and laws of this state.

House Bill No. 102

(House Bill No. 102—Mr. Hunter.)

AN ACT to amend and re-enact section nine of chapter twenty-nine of
the acts of the legislature of West Virginia, of one thousand nine
hundred and seven as amended and re-enacted by chapter one
hundred and twenty-seven of the acts of the legislature of one
thousand nine hundred and fifteen, concerning the salary of the
judge of the criminal court of Raleigh county.

Be it enacted by the Legislature of West Virginia:

That section nine of chapter twenty-nine, of the acts of the legislature of West Virginia, of one thousand nine hundred and seven as amended by chapter one hundred and twenty-seven of the acts of the legislature of West Virginia, of one thousand nine hundred and fifteen be amended and re-enacted so as to read as follows:

Section 9. The judge of the criminal court of Raleigh county 2 shall receive for his services forty-five hundred dollars per annum, 3 to be paid out of the county treasury of said county of Raleigh, in 4 the same manner and at the same time as the salaries of the other 5 county officers are paid; and he shall be disqualified from practicing law in all the courts of this state during his continuance 7 in said office.

House Bill No. 133

(House Bill No. 133—Mr. Sanders.)

AN ACT to amend and re-enact section twenty-four of chapter ninety of the acts of the legislature of one thousand nine hundred and seventeen relating to the common pleas court of Cabell county.

Be it enacted by the Legislature of West Virginia:

That section twenty-four of chapter ninety of the acts of the legislature of one thousand nine hundred and seventeen, relating to the common pleas court of Cabell county, be amended and re-enacted so as to read as follows:

Salary of Judge; How Paid.

Section 24. The said court shall have jurisdiction common 2 and concurrent with the circuit court of said county, to try and 3 determine all civil cases appealed from justices of the peace, and 4 all the powers and duties conferred by law on the circuit court 5 of said Cabell county, or the judge thereof in vacation, insofar as 6 the same relate to civil actions before such justices and appeals 7 therefrom, are hereby vested in said common pleas court or its 8 judge in vacation.

9 The judge of the common pleas court shall receive for his services 10 forty-two hundred dollars annually, payable in monthly installments, 11 beginning on the first day of January, one thousand nine

12 hundred and twenty-one, which amount shall be provided for and
13 paid by the county court out of the treasury of said Cabell county.

House Bill No. 136

(House Bill No. 136—Mr. Sanders.)

AN ACT to create and establish in the county of Cabell a court to be known as the "domestic relations court" and to define its jurisdiction.

Be it enacted by the Legislature of West Virginia:

Section 1. That there is hereby created and established in and
2 for the county of Cabell, with authority and jurisdiction co-ex-
3 tensive with the county, a court to be known as the "domestic
4 relations court" of Cabell county, for the trial of divorce, annul-
5 ment of marriage and alimony causes, the care and disposition of
6 delinquent, defective, neglected and dependent children, and deser-
7 tion and non-support of wives and children and for the enforce-
8 ment of the general school laws, arising within the said county or
9 coming within the jurisdiction of the court as provided by the gen-
10 eral laws of this state and as hereinafter provided.

Sec. 2. The said domestic relations court shall have jurisdic-
2 tion within the said county of Cabell, concurrent with the circuit
3 court of all matters and causes arising out of or pertaining to di-
4 vorce, annulment of marriage, alimony, the custody and mainte-
5 nance of children of litigants and the adjudication of property
6 rights arising out of the same, and all other matters and causes
7 coming within the purview of chapter sixty-four of the Barnes'
8 code of West Virginia of one thousand nine hundred and eighteen,
9 and of all amendments and re-enactments thereof, commonly
10 known as the divorce law; of all matters and causes coming within
11 the purview of chapter one hundred and eleven of the acts of the
12 legislature of West Virginia, session of one thousand nine hundred
13 and nineteen and of all amendments and re-enactments thereof
14 commonly known as the juvenile act, of all matters and causes
15 coming within the purview of chapter one hundred and ten of the
16 acts of the legislature of West Virginia, session of one thousand
17 nine hundred and seventeen, and of all amendments and re-enact-
18 ments thereof, and commonly known as the non-support act, of all

19 matters and causes coming within the purview of chapter two of
20 the acts of the legislature of West Virginia, session of one thou-
21 sand nine hundred and nineteen, and all amendments and re-en-
22 actments thereof, commonly called the general school law, and all
23 amendments and re-enactments thereof, and of all matters and
24 causes coming within the purview of chapter one hundred and
25 twenty-two of the Barnes' code of West Virginia of one thousand
26 nine hundred and eighteen, and of all amendments and re-enact-
27 ments thereof, commonly known as the adoption law; of all mat-
28 ters and causes coming within the purview of chapter one hun-
29 dred and ten of the acts of the legislature of West Virginia, ses-
30 sion of one thousand nine hundred and nineteen, and of all amend-
31 ments and re-enactments thereof, commonly known as the depend-
32 ent and neglected children act. And of all matters and causes
33 coming within the purview of all other or future acts of the legis-
34 lature touching the subject matter of any and all said laws and
35 acts and of the amendments and re-enactments thereof, and of the
36 common law of said state relating to the subject matter thereof.
37 And that the proceedings and modes of procedure and power and
38 jurisdiction conferred by law upon the circuit court or the common
39 pleas court in any and all of said matters and causes, are hereby
40 conferred upon and shall be exercised by said domestic relations
41 court.

Sec. 3. The governor of this state, on or before the first day
2 of May, one thousand nine hundred and twenty-one, shall desig-
3 nate, appoint and commission a judge of said court, who shall be a
4 resident member of the bar and in good standing therein, of said
5 county, who shall preside over said court and serve as such from
6 May first, one thousand nine hundred and twenty-one, until Janu-
7 ary first, one thousand nine hundred and twenty-three.

8 That at the general elections regularly held on Tuesday after
9 the first Monday in November, one thousand nine hundred and
10 twenty-two, and thereafter at intervals of eight years, some person
11 qualified as aforesaid shall be elected in the manner provided by
12 law for the election of circuit judges, to be the judge of said court
13 for the next ensuing term of eight years, beginning on January
14 first next following such election. The judge of said court may be
15 removed from office for the same reasons and in the same manner
16 as judges of the circuit courts. And if from any cause the office
17 shall become vacant, the vacancy shall be filled in the same manner

18 as in the case of a vacancy in the office of judge of the circuit
19 court.

Sec. 4. The said judge of the domestic relations court of Cabell
2 county shall, for his services, receive the sum of three thousand
3 dollars per annum in monthly installments, to be paid out of the
4 county treasury of the said county of Cabell.

Sec. 5. It shall not be necessary in any cause or proceedings
2 in said domestic relations court that the facts authorizing it to
3 take jurisdiction of the case or proceedings should be set forth
4 upon the record; but jurisdiction shall be presumed unless the
5 contrary plainly appear by the record.

Sec. 6. The domestic relations court shall have the same powers
2 to punish for contempt as are conferred upon the circuit court by
3 law.

Sec. 7. The judge of the circuit court of Cabell county, may
2 in his discretion, certify to the said domestic relations
3 court any portion or all of the divorce docket, suits for the an-
4 nulment of marriage and suits for alimony pending in said circuit
5 court on the first day of May, one thousand nine hundred and
6 twenty-one, and all matters, suits, actions, petitions and proceed-
7 ings so certified to said domestic relations court by said circuit court
8 shall be docketed and thereafter proceeded with therein accord-
9 ing to law. The judge of the said circuit court, in his discretion.
10 may also direct the clerk of the said court to docket all such mat-
11 ters, suits, actions, petitions and proceedings as may be instituted
12 on and after the first day of May, one thousand nine hundred and
13 twenty-one, either in said circuit court or in said domestic rela-
14 tions court. And in the event of the absence or disqualification of
15 either of said judges any matter coming within the purview of
16 this act pending in either court may be certified to the other court,
17 docketed therein and proceeded with according to law. And the
18 judge of the common pleas court of Cabell county shall, on the first
19 day of May, one thousand nine hundred and twenty-one, certify
20 to said domestic relations court such cases as may be upon the
21 juvenile and non-support docket, pending in such common pleas
22 court at such time, and all matters, suits, actions, petitions and
23 proceedings so certified to said domestic relations court shall be
24 docketed therein and thereafter proceeded with therein according
25 to law. And on and after May first, one thousand nine hundred

26 and twenty-one, the common pleas court shall not have jurisdic-
27 tion of any matter coming within the purview of this bill.

Sec. 8. For the purpose of maturing, docketing, hearing and
2 determining all matters, suits, petitions and other proceedings
3 properly determinable in said domestic relations court and arising
4 out of or relating to the administration of the laws of this state
5 relating to divorce, annulment or marriage and suits for alimony,
6 there shall be regularly continued and held four terms of said
7 court each year, beginning respectively on the first Monday in
8 March, June, September and December. Special terms of said
9 court may be called and held whenever, in the discretion of the
10 judge of said court and public interest requires such special terms,
11 in the manner provided by law for the calling and holding of
12 special terms of circuit court. The said judge shall have jurisdic-
13 tion and authority, in the vacation of said court, to make and enter
14 such proper orders in any matter, suit, action, petition or pro-
15 ceeding pending in said court as the judge of the circuit courts
16 now have under the laws of this state, and all matters arising
17 under the jurisdiction of said court other than divorce and an-
18 nulment of marriage and alimony causes may be heard and de-
19 termined either in term time or in vacation of said court, *pro-*
20 *vided, however,* that proper notice be given as provided by law
21 for the particular case. And that the mode of procedure in cases
22 instituted in this court shall be the same as that prescribed for
23 the circuit courts of this state in similar causes, and the court is
24 hereby empowered to appoint such additional officers, commis-
25 sioners in chancery and jury commissioners as shall enable the said
26 court to discharge all the duties required of it under the provisions
27 of this bill and the general laws of the state hereunder. And the
28 judge of said court shall have the power to make rules for the
29 transaction of the business of said court, provided the same are
30 in conformity with the laws of the state of West Virginia.

Sec. 9. The clerk of the circuit court of Cabell county shall
2 act as and perform the duties as clerk of the said domestic rela-
3 tions court and shall exercise the same powers and duties arising
4 within the jurisdiction of said court as are performed by him as
5 clerk of the circuit court of said Cabell county. All processes,
6 rules and orders of said court in the exercise of its jurisdiction
7 shall be signed by the clerk thereof to be directed to the sheriffs'
8 of the proper counties wherein the same are executed in like man-

ner and with the same effect as processes issuing from the circuit court of said Cabell county.

Sec. 10. The sheriff of Cabell county and the sheriffs of the several counties in the state shall by themselves or their deputies execute all processes of said court, issued by the clerk thereof, directed to them respectively, and all processes emanating from said domestic relations court shall be directed to and executed by them in the same manner as is provided by law as to processes issuing from the circuit court of said clerk. And the sheriff of Cabell county shall perform the same duties and services for the domestic relations court as he is now by law required to perform for the circuit court of said county; and in the execution of processes, rules and orders of said court, the said officer shall have the same powers and rights, be subject to the same liabilities, govern himself by the same rules and principles of law and the statutes of the state, as though the processes issued from the circuit court of said county.

Sec. 11. That for the proper and efficient administration and enforcement of the matters within its jurisdiction, the judge of the domestic relations court shall name two probation officers, who shall be appointed and qualified and who shall receive the salaries and expenses, who shall be charged with the same duties and who shall have the same power and authorities as provided by section six of chapter three, acts of the legislature of West Virginia, session of one thousand nine hundred and nineteen and of all amendments and re-enactments thereof.

Sec. 12. It shall be the duty of the county court of Cabell county to provide all record and other books and stationery that may be necessary, and likewise a seal for said domestic relations court; but full faith and credit shall be given to the record of said court and certificates of its judge or clerk, whether the seal of the court be affixed thereto or not, in like manner and with the same effect as if the same were records of the circuit court similarly authenticated. And the said county court of Cabell county shall furnish and provide sufficient rooms and furniture for the proper conduct and holding of said court.

Sec. 13. Appeals may be allowed and writs of error and super-sedeas awarded to the judgments, ruling and orders of the said domestic relations court or the judge thereof, by the circuit court of Cabell county or the judge thereof, or the judge of any other

5 circuit court in this state, in cases involving the freedom of the
6 person or the constitutionality of the law, and in case of the re-
7 fusals of the circuit court of Cabell county or the judge thereof,
8 application for such writ of error and supersedeas or appeal may
9 be made direct to the supreme court of appeals of the state or
10 any judge thereof, *provided, however*, that in all cases such appli-
11 cation shall be made within sixty days next following date of the
12 entry of final order of judgment.

Sec. 14. All acts or parts of acts in conflict herewith are hereby
2 repealed.

House Bill No. 198

(House Bill No. 198—Mr. Fout.)

AN ACT to repeal chapter fifty-three of the acts of the legislature of
one thousand nine hundred and thirteen, which altered and
modified the county court of Grant county under the twenty-
ninth section of the eighth article of the constitution of West
Virginia, and to provide for the election of county commis-
sioners in said county in accordance with sections twenty-two and
twenty-three of article eight of the constitution of West Vir-
ginia.

Be it enacted by the Legislature of West Virginia:

Section 1. That chapter fifty-three of the acts of the legisla-
2 ture, one thousand nine hundred and thirteen, which altered and
3 modified the county court of Grant county under the twenty-
4 ninth section of the eighth article of the constitution of West
5 Virginia, be, and the same is hereby repealed.

Sec. 2. There shall be in the county of Grant, a county court,
2 composed of three commissioners, and two of said commissioners
3 shall be a quorum for the transaction of business. It shall hold
4 four regular sessions in each year, at such times as may be
5 fixed upon and entered of record by the said court. Special ses-
6 sions of said court may be held as provided by law.

Sec. 3. The commissioners shall be elected by the voters of
2 the county, at the next general election after this act becomes
3 effective, and shall hold their office for the term of six years,
4 except that at the first meeting of said commissioners they shall

5 designate by lot or otherwise in such manner as they may de-
6 termine, one of their number who shall hold his office for the
7 term of two years, one for four years, and one for six years,
8 so that one commissioner shall be elected every two years, but
9 no two of such commissioners shall be elected from the same
11 magisterial district. And if two or more persons residing in
11 the same district shall receive the greater number of votes cast
12 at any election, then only the one of such persons receiving the
13 highest number shall be declared elected, and the person living
14 in another district, who shall receive the next highest number
15 of votes cast, shall be declared elected. Such commissioners
16 shall annually elect one of their number as president, and each
17 shall receive two dollars per day for his services in court, to
18 be paid out of the county treasury.

Sec. 4. The commissioners and clerk of the present county
2 court as altered and modified by chapter fifty-three of the acts
3 of the legislature of one thousand nine hundred and thirteen
4 shall continue as commissioners and clerk of the county court
5 established by this act until the term for which each was elected
6 shall have expired, and until their successors shall have been
7 elected or appointed and qualified.

House Bill No. 250

(House Bill No. 250—Mr. McClintic, of Kanawha.)

AN ACT to amend and re-enact section nine of chapter fifty-six of
the acts of one thousand nine hundred and nineteen, relating
to the intermediate court of Kanawha county.

Be it enacted by the Legislature of West Virginia:

That section nine of chapter twenty-eight of the acts of one thou-
sand nine hundred and nineteen be amended and re-enacted so
as to read as follows:

Section 9. The said judge of the intermediate court of Kan-
2 awha county shall for his services receive a salary of five thou-
3 sand five hundred dollars per annum, to be paid out of the
4 county treasury of said county, from the first day of January, one
5 thousand nine hundred and twenty-one.

House Bill No. 321

(House Bill No. 321—Mr. McClintic, of Kanawha.)

AN ACT to amend and re-enact section nine of chapter one hundred and nine of the acts of the legislature of one thousand nine hundred and fifteen, relating to the salary of the judge of the court of common pleas of Kanawha county.

Be it enacted by the Legislature of West Virginia:

That section nine of chapter one hundred and nine of the acts of the legislature at the regular session of one thousand nine hundred and fifteen, relating to the salary of the judge of the court of common pleas of Kanawha county, be amended and re-enacted so as to read as follows:

Section 9. The judge of the court of common pleas of Kanawha county shall for his services receive fifty-five hundred dollars per annum, to be paid out of the county treasury of said county of Kanawha, from January first, one thousand nine hundred and twenty-one.

House Bill No. 439

(House Bill No. 439—Mr. Strother.)

AN ACT authorizing the city of Williamson to hold a special election for the issuance and sale of bonds for the improvement of its water works in addition to its present bonded indebtedness.

Be it enacted by the Legislature of West Virginia:

Section 1. The city of Williamson is authorized to hold a special election for the issuance and sale of bonds for the improvement of its water works in addition to present bonded indebtedness as hereinafter set forth:

Sec. 2. That the city of Williamson, through its city commission, be and is hereby authorized to hold a special election, for the purpose of issuing its bonds, in addition to its present outstanding bonded indebtedness, for the purpose of improving its present water works system, *provided*, that such issuance and sale of such bonds, shall not be in excess of five per centum of the value of the taxable property within the said corporation, and which

8 valuation shall be ascertained by the last assessment for the state
9 and county taxes prior to the issuing of such bonds.

Sec. 3. Before such election shall be held, it shall be the duty
2 of the mayor of said city, when authorized by the city commission
3 by ordinance duly adopted, to issue a proclamation specifying the
4 purposes and amount for which such bonds are to be issued, and
5 appointing a day on which the election shall be held by all the
6 qualified voters of the said city to decide whether such bonds shall
7 be issued or not. Such proclamation shall be published in two
8 newspapers published in the said city at least two weeks previous
9 to the day of the election.

Sec. 4. Such election shall be conducted in all things according
2 to the laws in force covering election, and the provisions of the
3 charter of the city of Williamson, and all persons qualified to vote
4 in other municipal elections in the said city, and none other, shall
5 vote at such election as are herein authorized.

Sec. 5. Persons voting for the ratification of such bond issue
2 shall have furnished to them and printed on his or her ballot the
3 words, "For bond issue", and persons voting against the ratifica-
4 tion shall have furnished them and printed on his ballot, the
5 words, "Against bond issue."

House Bill No. 275

(House Bill No. 275—Mr. Daugherty, of Wirt.)

AN ACT authorizing the county court of Wirt county, West Virginia,
to lay a special levy for the year one thousand nine hundred and
twenty-two, and if necessary for the purpose for the year one
thousand nine hundred and twenty-three on all taxable property
of said county for the purpose of erecting a public bridge
across the Little Kanawha river at the county seat thereof, and
providing for the receipt and disbursement of all moneys raised
by said levy.

Be it enacted by the Legislature of West Virginia:

Section 1. For the purpose of constructing a public bridge
2 across the Little Kanawha river, at the county seat of the county
3 of Wirt, the county court of said county is hereby authorized
4 to lay a special levy on all taxable property within the said

5 county for the year one thousand nine hundred and twenty-two
6 and, if necessary, for the year one thousand nine hundred and
7 twenty-three, not to exceed in either year ten cents on the one
8 hundred dollar valuation of said property, as assessed for regular
9 state, county and district taxation. Said levy shall be called a
10 "special bridge levy" and the funds derived therefrom shall be
11 used for said purpose and for no other.

House Bill No. 350

(Committee Substitute for House Bill No. 350.)

(By the Committee on Medicine and Sanitation.)

AN ACT to authorize the county court of Marion county to establish and maintain dental clinics for all resident children in said county, under the age of twelve years, to lay necessary levies, to employ dentists and other help, to purchase equipment and supplies, and to prescribe rules and regulations for the government of said clinics.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Marion county is hereby authorized and empowered to establish and maintain in said county, as herein provided, dental clinics, for the benefit of all resident children in said county, under the age of twelve years, and to prescribe rules and regulations for the government of said clinic.

Sec. 2. Said county court is authorized to appoint for a term of four years, within ninety days after this act shall take effect, and every four years thereafter, a competent dentist, licensed to practice dentistry in the state of West Virginia, who shall have had at least three years experience, who shall have been a resident dentist of Marion county for at least three years and who is a member in good standing in the West Virginia State Dental Society, who shall be known as county director of dental clinics, and said county court shall fix his salary, and said county director of dental clinics may be removed as provided by section seven of chapter seven of the code of West Virginia.

Sec. 3. Said county court is authorized to purchase and furnish all equipment, supplies and materials that may be necessary to establish and maintain said dental clinics, and pay for the same out of the funds hereinafter provided, and to prescribe

5 rules and regulations for the government of and management of
6 said dental clinics.

Sec. 4. Said county court shall, each year at the regular
2 term thereof, lay a levy not to exceed five cents on every one
3 hundred dollars of valuation of the taxable property in the county,
4 according to the last assessment thereof, to pay the expense and
5 cost of establishing and maintaining said clinics which shall be
6 known as the dental clinics fund.

Sec. 5. Said county director with the approval of the county
2 court, shall employ as many dentists as may, in his judgment,
3 be necessary for the successful conduct of said clinics who shall
4 be in good standing in their profession, and licensed to practice
5 dentistry in the state of West Virginia; and, such clerks, assist-
6 ants and other help as may, in the director's judgment, be re-
7 quired for the successful conduct of such clinics. Said county
8 court shall fix the salaries of said dentists, clerks, assistants and
9 other help and they shall be subject to the direction and control
10 of said county director, and may be removed or discharged by
11 him at any time he may deem advisable.

Sec. 6. It shall be unlawful for the county director, any den-
2 tist, clerk, assistant or other help employed as herein provided
3 and they shall be removed or discharged by said county court.
4 should they, except in the performance of their duties as such
5 officers or appointees, engage in the practice of dentistry for the
6 term of their office, either as owner, manager, partner, stockholder,
7 agent, employee or adviser, or in any other connection whatsoever,
8 direct or indirect; nor to permit or aid any member of his family.
9 or any other person, if same can be avoided, to engage in said
10 line of business within the said period and the said Marion
11 county, if by same the names or identities of the said county
12 director, dentists, clerks, assistants and other help would in any
13 way be associated with said practice of dentistry; or to discrim-
14 inate in the placing of business with one dental supply house in
15 preference to others.

Sec. 7. All persons employed under this act, shall be paid
2 monthly out of the fund hereinbefore provided for, upon requi-
3 sition issued by the county director in the manner prescribed by
4 the county court.

Sec. 8. The county superintendent of schools, the boards of
2 education, the district superintendent and teachers, and all other

3 persons employed in said county in connection with school work,
4 shall assist and co-operate with said director, and all persons
5 employed by him in said clinical work.

Sec. 9. The county court shall not lay the levy herein
2 provided for, until authorized by the voters of the county, at an
3 election to be held in and for said county.

Sec. 10. The election mentioned in section nine of this act
2 may be held at any general, or at any special election held for
3 any other purpose, as well as held separately. Notice thereof,
4 however, shall be given by the publication of the order of the
5 court, in two newspapers of general circulation in the county,
6 and of opposite politics, at least once in each week for two
7 successive weeks before the election, and printed copies of said
8 order shall be posted at each place of voting at least ten days
9 before the election. All the provisions of the laws concerning
10 general elections shall apply to such election as far as they are
11 applicable, except as follows: A separate ticket shall be used at
12 such election held in connection with any other election. On
13 such ticket shall be printed a brief statement of the question sub-
14 mitted, such as, "special election to authorize dental clinic levy
15 of cents, according to the order of the county court, en-
16 tered on the day of,," and directly under-
17 neath in two separate lines, shall be printed the words "for the
18 levy" and "against the levy." Those favoring the levy shall
19 erase the words "against the levy" and those opposed thereto
20 shall erase the words "for the levy"; such erasure may be ac-
21 complished by drawing a line through said respective phrases,
22 or words constituting the same. If a majority of those voting on
23 the question be in favor of the levy the said county court shall
24 be authorized to lay the same; but if a majority of the votes
25 on the question be not in favor of such levy, it shall not be laid.
26 The county clerk shall prepare, procure and furnish to the elec-
27 tion commissioners at each place of voting the tickets, poll books,
28 tally sheets, and other things needed; *provided*, that the question
29 of levy may be submitted for any two successive years that may
30 be named in the order submitting the question to the voters, the
31 rate of levy for each year being stated in such order; and if the
32 levy be authorized, as aforesaid, the county court may lay such
33 levy for each of said two years, or so much thereof as may be
34 found necessary.

House Bill No. 104

(House Bill No. 104—Mr. Hall, of Wetzel.)

AN ACT to authorize the county court of Wetzel county, a body politic, to acquire, by purchase or otherwise, a building or buildings, and ground or suitable site, and to erect, equip and maintain thereon a building or buildings for a hospital for the inhabitants of said county, and to extend the same privilege to others upon such terms as the county court or board may deem reasonable, and lay levies therefor.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Wetzel county, a body politic, 2 is fully authorized to acquire and establish, at the county seat, or 3 adjacent thereto, by purchase or otherwise, ground and building, or 4 buildings, or ground for a hospital and to erect and maintain 5 thereon, a building or buildings, and may lay a tax for the purpose of acquiring and establishing the same of not more than five 6 cents on the one hundred dollars, on all taxable property in said 7 county, and thereafter a like tax of not more than two cents on the 8 one hundred dollars, such tax to be levied and collected in like 9 manner as the general taxes of the county, which shall be kept 10 separate in a fund to be known as the "hospital fund."

Sec. 2. Whenever such hospital is established under this 2 act, the county court shall appoint a board of directors equal in 3 number to the magisterial districts of the county and select one 4 from each of such districts from the citizens thereof, with reference to their fitness for such office. Such directors shall hold 5 office for four years from the first day of July following their 6 appointment, and until their successors are appointed. No person shall be ineligible to appointment by reason of sex. Vacancies in the board shall be reported to the county court and 7 filled by appointment in like manner as original appointments 8 for the unexpired term. The county court may remove any director for misconduct or neglect of duty. No compensation shall 9 be paid or allowed any director.

Sec. 3. The board of directors of said hospital established 2 under this act shall, immediately after their appointment, meet 3 and organize by electing one of their number as president and 4 one as secretary; a majority of all the members of any board shall

5 constitute a quorum for the transaction of business. They shall
6 make and adopt such by-laws, rules and regulations from time
7 to time for their own guidance and for the government and
8 use of the hospital as may be expedient and not inconsistent
9 with this act. Said board shall have authority to contract for
10 the construction or purchase of a hospital established under this
11 act and for repairs thereon or maintenance thereof and the super-
12 vision, care and custody of the ground, structure or structures;
13 *provided, however*, that all contracts shall be approved by the
14 county court and that the expenditures of all funds shall be
15 subject to the approval of the county court, and all moneys be-
16 longing to the hospital fund shall be deposited in the treasury of
17 said county to the credit of the hospital fund and shall be
18 drawn therefrom on orders issued by the county court. Said
19 orders shall not be drawn except upon requisition of the hospital
20 board attached to proper authenticated vouchers. The buildings
21 and ground purchased for a hospital and established under this
22 act may be acquired by condemnation by said board in the same
23 manner as the county court may acquire other real estate for
24 public uses and purposes, and the title of all such property
25 shall be and vest in the county court. The said board shall
26 have power to appoint a suitable custodian and assistants and
27 prescribe rules for their conduct; fix their duties and compensa-
28 tion, and shall have power to remove such appointees and, in gen-
29 eral, to carry out the spirit and intention of this act.

Sec. 4. Said hospital established under this act, shall be free
2 for the use of the inhabitants of the county, subject to such
3 reasonable rules and regulations as the board may adopt, in order
4 to render the use of said hospital of the greatest benefit to the
5 greatest number; and the said board may exclude from the use
6 of the hospital any and all persons who shall wilfully violate such
7 rules. The board of directors may extend the use and privileges
8 of the hospital to non-residents of the county upon such terms
9 and conditions as said board may prescribe.

Sec. 5. The board of directors shall on or before the first day
2 of July in each year, make a report to the county court, stating
3 the condition of the property, the various sums of money received
4 from the hospital fund, and from all other sources, how much
5 money was expended and for what expended; also an itemized
6 budget estimate of expense of the property for the ensuing

7 year, with such other information and suggestions as they deem
8 of general interest, or that may be required of the county court.

Sec. 6. Any person or persons, including corporations, who de-
2 sire to make donations of cash or other personal property, or real
3 estate for the benefit of the hospital, shall have the right to
4 do so, and shall have the right to vest the title thereof in the
5 county court, to be held in trust and controlled by such board,
6 the same as the other property owned or acquired, and accord-
7 ing to the terms and for the purposes set out in the deed, gift,
8 devise or bequest.

Sec. 7. Any one who shall wilfully deface or injure such
2 hospital or property, shall be guilty of a misdemeanor, and on
3 conviction thereof shall be punished by a fine of not less than
4 ten dollars nor more than one hundred dollars or by imprison-
5 ment not exceeding twelve months, or both. The fine in each
6 case shall be paid to the proper officer of the hospital fund, to be
7 used as other money paid into its treasury.

Sec. 8. *Provided, however,* that this act shall have no force or
2 effect until it shall have been ratified by a majority of the legal
3 voters of the county of Wetzel voting upon its ratification or re-
4 jection at an election to be held at the same time and places as the
5 primary election held in said county for the purpose of nominating
6 candidates for county offices to be voted upon at the general elec-
7 tion to be held in the year one thousand nine hundred and twenty-
8 two. For the purpose of obtaining an expression of the voters
9 upon the ratification or rejection of this act, the county court shall
10 cause to be printed and delivered to the proper election officials ap-
11 pointed for holding the primary election aforesaid, a ballot, con-
12 taining the words set out in the caption of this act, with words un-
13 derneath as follows:

14 () For ratification of act:

15 () Against ratification of act:

16 The election upon this question shall be conducted and the res-
17 sult ascertained and certified in the manner as that for nominating
18 candidates for county offices at said primary election.

House Bill No. 236

(House Bill No. 236—Mr. Satterfield.)

AN ACT authorizing the city of Fairmont to lay a special levy for completing the bridge now in course of construction across the Monongahela river and to repay the citizens of said city any moneys heretofore advanced, or which may hereafter be advanced by them in aid of such construction, not to exceed the sum of one hundred and twenty-five thousand dollars and interest.

Be it enacted by the Legislature of West Virginia:

Section 1. The city of Fairmont, a municipal corporation, is authorized to lay annually an additional levy, to be called a "Special Bridge Levy", over and above and in addition to all other authorized levies, of not to exceed twenty cents on the one hundred dollars assessed valuation of all the taxable property within the said city of Fairmont for the purpose of completing the bridge now in course of construction across the Monongahela river in said city and for repaying to the citizens of said city, known as the bridge aid syndicate, any moneys heretofore advanced or which may hereafter be advanced by them, to said city in providing payment for said bridge, not to exceed the sum of one hundred and twenty-five thousand dollars and interest thereon, said levy not to continue longer than five years.

House Bill No. 10

(House Bill No. 10—Mr. Hall, of Wetzel.)

AN ACT to validate the proceedings authorizing the issuance of bonds of the town of Smithfield, Wetzel county, West Virginia, for the purpose of grading, improving and hard-surfacing the main thoroughfare of said town, and to authorize the execution and sale thereof, and to provide a tax to pay the same.

Be it enacted by the Legislature of West Virginia:

Section 1. All proceedings authorizing the issuance of bonds of the town of Smithfield, Wetzel county, West Virginia, in the amount of fifteen thousand dollars, for the purpose of grading, improving and hard-surfacing the main thoroughfare of said town,

5 which bonds bear date the first day of September, one thousand
6 nine hundred and twenty, and interest at the rate of six per cent
7 per annum and are to be issued serially in equal installments for
8 one thousand dollars each, so that after the first ten years from the
9 date of their issue one of the series will fall due and be payable
10 in every year until the whole of the issue is paid, with the provis-
11 ion that any or all of said bonds may be paid after ten years from
12 the date of issue, and were authorized by an ordinance of said town
13 of Smithfield, and by an election held in said town for that pur-
14 pose, on the twenty-first day of August, one thousand nine hun-
15 dred and twenty, at which election more than three-fifths of all the
16 votes cast for and against the issuing of such bonds was in favor of
17 their issuance, are hereby in all respects validated and confirmed.
18 The constituted and acting authorities of the town of Smithfield
19 are hereby authorized to execute, make sale of, and deliver such
20 bonds pursuant to such proceedings at not less than par. *Pro-*
21 *vided*, that this act shall not become effective until it shall have
22 been ratified by a majority of the votes cast at an election held
23 in said city of Smithfield for the purpose of determining whether
24 this act shall be approved or disapproved. For this purpose an
25 election shall be called by the common council of said town of
26 Smithfield within six months from the date of the passage of this
27 act, and notice of such election shall be given by posting a copy of
28 this act, together with a copy of the proclamation calling said elec-
29 tion at the voting place or places, and at least five other places
30 within the corporation limits of said town. The ballot used at
31 said election shall contain a brief statement of the question being
32 voted upon and directly underneath shall be printed the words:
33 "For ratification of act."
34 "Against ratification of act."

Sec. 2. A tax sufficient to pay the interest and maturing prin-
2 cipal of the bonds mentioned in section one of this act shall be
3 levied each year as required by the constitution, anything herein
4 or any other statute to the contrary notwithstanding.

House Bill No. 129

(House Bill No. 129—Mr. Otto.)

AN ACT authorizing and empowering the board of commissioners of the county of Ohio, to expend and use for the construction and maintenance of streets, roads and highways within the corporate limits of the city of Wheeling, in Ohio county, a portion of the funds raised from county tax levies on the taxable property in Ohio county for road and highway purposes.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of commissioners of the county of Ohio 2 is hereby authorized and empowered, in its discretion, to use and 3 expend for the construction and maintenance of streets, roads and 4 highways, within the corporate limits of the city of Wheeling, in 5 Ohio county, so much as the said board of commissioners may 6 deem advisable, and at such time or times as the said board may 7 determine, of the funds raised from county tax levies on the tax- 8 able property of Ohio county for road and highway purposes.

Sec. 2. All acts or parts of acts in conflict with this act are 2 hereby repealed.

House Bill No. 78

(House Bill No. 78—Mr. McColloch.)

AN ACT to amend and re-enact section five of chapter twenty-nine of the acts of the legislature of West Virginia, one thousand nine hundred and nine.

WHEREAS, By chapter fourteen of the acts of the legislature of one thousand nine hundred and nineteen, the boundaries of the city of Wheeling were changed not to be effective until an election was held within the boundaries of the city of Wheeling and the proposed annexed territory, between the first day of October and the first day of December, one thousand nine hundred and nineteen, and upon the vote being favorable to such annexation the territory embraced in said acts should become part of the city of Wheeling, after January first, one thousand nine hundred and twenty, and

WHEREAS, at an election held on the twenty-sixth day of November, one thousand nine hundred and nineteen, a majority of the votes were cast in favor of the annexation and the said territory proposed to

be annexed was annexed and became a part of the city of Wheeling and the boundaries were thereupon changed, and

WHEREAS, by the said act designated as chapter twenty-nine of the acts of the legislature, one thousand nine hundred and nine, the territorial sub-division or the representation of the board of county commissioners was fixed according to the then boundaries of the city of Wheeling so that the city should be divided into two sections and the county district embrace the third section, and

WHEREAS, the territory heretofore designated as the territory outside of the city is uncertain and a matter of dispute, and

WHEREAS, it is deemed of great benefit to have these territorial divisions definitely settled; now therefore,

Be it enacted by the Legislature of West Virginia:

That section five of chapter twenty-nine of the acts of the legislature of one thousand nine hundred and ninety-nine be amended and re-enacted so as to read as follows:

Section 5. The said county shall be laid off into not less than 2 three nor more than ten districts, as nearly equal as may be in 3 territory and population. The present sub-division of the county 4 and districts shall constitute such districts until changed by the 5 board of commissioners hereinafter mentioned. In each district 6 there shall be elected by the voters thereof two justices of the peace 7 and two constables who shall reside in their respective districts, 8 and shall hold their respective offices for the term of four years. 9 The board of commissioners of the county of Ohio shall consist 10 of three members, one who is a resident of that part of the present 11 boundaries of the city of Wheeling south of Wheeling creek; one 12 who is a resident of that part of the city of Wheeling north of 13 Wheeling creek, including Wheeling island, according to the pres- 14 ent boundaries of the city of Wheeling; and one who is a resident 15 of that territory of Ohio county outside of the present boundary of 16 the city of Wheeling. There shall be elected biennially from the 17 date of the last election held on the Tuesday next after the first 18 Monday in November, one thousand nine hundred and twenty, 19 one commissioner by the qualified voters of Ohio county as a mem- 20 ber of said board for the term of six years; *provided, however, that* 21 *at no time there shall be more than one member from any one* 22 *of three sub-divisions of the county above set out and provided, fur-* 23 *ther, that there shall be no commissioner elected from the territory*

24 outside the present boundary of the city of Wheeling, as a mem-
25 ber of said board, until the year one thousand nine hundred and
26 twenty-four.

27 The offices of justice of the peace and commissioners shall be
28 considered incompatible.

House Bill No. 124

(House Bill No. 124—Mr. Otto.)

AN ACT authorizing and empowering the council of the city of Wheeling, in Ohio county, to provide by ordinance for the detention, keeping and imprisonment in the county jail of Ohio county, of all persons convicted and sentenced to imprisonment by the municipal or police court of the city of Wheeling, and regulating the compensation to be paid for keeping, detaining and feeding of such prisoners.

Be it enacted by the Legislature of West Virginia:

Section 1. The council of the city of Wheeling, in Ohio county, shall have the right to provide by ordinance that all persons convicted of any offense by the police court of the city of Wheeling, in Ohio county, or other tribunal hereafter established in lieu thereof, and sentenced to imprisonment, shall be detained, confined and imprisoned in the county jail of Ohio county, in which event the council of the city of Wheeling shall allow and cause to be paid by said city, to the sheriff of Ohio county, for the imprisonment, detention, keeping and feeding of any such prisoners, the same compensation as provided by law for the keeping and feeding of county prisoners, and no other, further or additional compensation shall be charged to or paid by said city for the detention, imprisonment, feeding and keeping of such prisoners.

Sec. 2. All acts or parts of acts in conflict with this act are hereby repealed.

House Bill No. 125

(House Bill No. 125—Mr. Otto.)

AN ACT authorizing and empowering the board of commissioners of the county of Ohio to issue bonds of the county and to lay

special levies for the building of roads and bridges in any of the territory of said Ohio county, including the territory embraced within the corporate limits of the city of Wheeling, in said Ohio county, and authorizing the laying of levies for the payment of any such bonds, principal and interest.

Be it enacted by the Legislature of West Virginia:

Section 1. Subject to the limitations of sections seven and eight of article ten of the constitution of West Virginia, the board of commissioners of the county of Ohio, upon the filing with the clerk thereof of a petition signed by not less than ten per cent of the legal voters within the county of Ohio (such percentage to be based on the total vote cast for governor at the last preceding general election) praying for the construction of any road or roads, in any of the territory of Ohio county, including the territory embraced within the corporate limits of the city of Wheeling, in said Ohio county, the board of commissioners of the county of Ohio, shall submit the proposition of the issuance of bonds of the county of Ohio, or for the authorization of a special road fund levy on all the assessed property in said Ohio county for a period of years not to exceed ten, to the legal voters of the county of Ohio. Such petition shall contain a statement specifying the road or roads, to be built or improved, and shall specify the route or routes of any proposed road or roads and the general construction and materials to be used in building same and a prayer for the submission of a road bond proposition or a special road fund levy proposition to provide funds for such improvements. Upon the filing of such petition with the clerk of the said board of commissioners said board shall without delay instruct the county engineer, or some other engineer specially employed by it, to make an investigation and to report to said board a plan of construction and an estimate of the probable cost of the proposed improvement, upon approval of such proposed plan and estimate of any such proposed improvement by the board of commissioners, said board shall submit to the legal voters of the county a proposition for such issue and sale of bonds or for such special road fund levy, as the case may be. The order of said board of commissioner's submitting such proposition shall contain a summary of the engineer's report herein provided for set-

34 ting forth the approximate extent and estimated cost of the pro-
35 posed improvement, the kind and class of work and materials to be
36 used, the valuation of all the property of the county of Ohio
37 as shown by the last assessment thereof for purposes of taxation,
38 and the existing county bonded indebtedness. Such order shall
39 specify the work for which the money to be raised by the sale of
40 bonds or the laying of a special road fund levy is to be appropri-
41 ated, and shall provide that no part of the proceeds of such bonds
42 or levy shall be used for any other purpose than the improvement
43 specified in such order. The said board of commissioners of the
44 county of Ohio shall cause a vote to be taken throughout the county
45 of Ohio upon the question of such bond issue or such special levy
46 at the succeeding general election for state and county officers, or
47 at any special election which is first held in the county after such
48 vote is ordered taken; or, if the petition so specifies, the said board
49 shall order a special election for the purpose within ninety days
50 from the certification of the engineer's report herein provided for;
51 but such order for any election on the question of a bond issue or a
52 special road fund levy together with a summary of the engineer's
53 report herein provided for, shall be published throughout the said
54 county in the following manner

55 The clerk of the said board of commissioners shall cause as many
56 copies of such order to be made or printed as may be necessary,
57 and sign the same; he shall forthwith post one in a conspicuous
58 place in his office, and one at the front door of the court house.
59 The board of commissioners shall direct a copy to be published
60 once each week for four consecutive weeks prior to the date of
61 said election in two newspapers of opposite politics, if such there
62 be, published in said county of Ohio.

Sec. 2. A vote shall thereupon be taken and the result ascer-
2 tained under the regulations prescribed for a general election of
3 county and district officers; or, if the vote is taken at a special
4 election ordered for the purpose, the same shall be held by com-
5 missioners appointed for the purpose by the said board of com-
6 missioners of the county of Ohio at the time said election is or-
7 dered, and the result shall be ascertained and certified according
8 to the regulations prescribed by law for ascertaining and certifi-
9 ing the election of county and district officers; *provided, how-*
10 *ever,* that if the vote is taken at a special election called for

11 that purpose, the same shall be held and conducted by single
12 election boards.

13 Should the proposition of issuing said bonds or laying said
14 special road levies be submitted to a vote at a special election,
15 there shall be written or printed on the ballots used in such
16 election a brief statement of the question submitted, such as:

17 "Special election to authorize a bond issue for the construc-
18 tion of (insert a brief description of road and the location there-
19 of), according to the order of the board of commissioners of
20 the county of Ohio, entered on the day of";
21 and directly underneath, in two separate lines shall be printed
22 the words

23

For Bond Issue

24

Against Bond Issue,

25 And there shall also be printed on the ballot a brief statement set-
26 ting forth the maximum rate of levy necessary in each year to pay
27 the interest and provide a sinking fund for the discharge of the
28 principal of said bonds at maturity; such as "To authorize a
29 maximum special bond levy of cents on each one hun-
30 dred dollars property valuation to pay the interest on, and
31 cents on each one hundred dollars property valuation to provide a
32 sinking fund for the discharge of the principal of the bonds now
33 being voted for according to the order of the board of commis-
34 sioners of the county of Ohio, entered on the day of
35"; and directly underneath in two separate lines,
36 shall be printed the words:

37

For the Levy

38

Against the Levy

39 And in case of an election on a special road fund levy propo-
40 sition there shall be written or printed on the ballots used in
41 such election a brief statement of the question submitted, such
42 as:

43 "Special election to authorize a special road fund levy of
44 cents annually for a period of not to exceed years,
45 according to the order of the board of commissioners of the
46 county of Ohio, entered on the day of";
47 and directly underneath in two separate lines, the words:

48

For Special Road Fund Levy

49

Against Special Road Fund Levy.

50 Should the proposition of the issuance of any such bonds,

51 or the laying of any such special road fund levies, be submitted
52 to vote at any general election, a separate ballot shall be pro-
53 vided, which ballot shall contain the same statements as pro-
54 vided herein for ballots in case the vote should be taken at a
55 special election called for the purpose, excepting the words
56 "special election."

57 If it shall appear by said poll that not less than three-fifths
58 of the voters of the county, who voted upon the proposed is-
59 suance of the bonds or the proposed special road fund levy,
60 have voted in favor of the same, the said board of commis-
61 sioners of the county of Ohio shall then have authority to issue the
62 amount of the bonds or to lay the levy as voted in the name
63 of the county, and provide for the payment of such bonds by
64 taxation on the county, or to lay such levies as the case may be.

65 The said board of commissioners of the county of Ohio shall
66 have authority to issue and shall issue, as provided by law, said
67 bonds for and in the name of said county, and shall make pro-
68 vision for the payment of same, principal and interest, by said
69 county of Ohio, as is specified in the order under which said
70 vote is taken, or shall lay such special levy on all the taxable
71 property of said county, as the case may be.

72 The president of the board of commissioners of the county
73 of Ohio shall have power when so directed by the board, by
74 an order entered of record therein, to execute, sell and deliver
75 the bonds of said county, and receive the proceeds therefrom,
76 and said bonds shall be valid and binding on said county of
77 Ohio when signed by the president of said board of commie-
78 sioners and countersigned by the clerk thereof, with the seal
79 of the county attached thereto.

80 All bonds issued hereunder shall be of the denomination of
81 one hundred dollars or multiples thereof not exceeding one
82 thousand dollars; they shall be payable not less than one nor
83 more than thirty-four years after date, and shall not bear more
84 than six per cent interest, payable annually or semi-annually.
85 It shall be unlawful for the board of commissioners of the
86 county of Ohio and for the officers thereof to privately issue or
87 sell directly or indirectly any bond or bonds issued hereunder
88 or by virtue thereof; but all such bonds shall be publicly sold
89 to the highest bidder in writing to be approved by the said
90 board, for cash or its equivalent, and before any sale of such

91 bonds, such sale shall be advertised in some newspapers, not
92 exceeding four, published in or out of said county of Ohio,
93 once a week for four weeks previous to said sale; none of said
94 bonds shall be sold at less than their par value.

Sec. 3. The proceeds of any such bond issue or of any such
2 special road fund levy shall constitute a fund to be expended by the
3 board of commissioners of the county of Ohio for the purpose spec-
4 ified in the order of said board under which the vote on any such
5 bond issue, or any special road fund levy, was taken, and for no
6 other purpose. After the issuance and sale by the said board of
7 commissioners of any such bonds as are mentioned herein, the said
8 board shall each year thereafter lay a levy sufficient to pay the
9 annual interest on said bonds, and to create a sinking fund suffi-
10 all other levies allowed by law, on all the taxable property in the

Sec. 4. Legal voters of the county of Ohio numbering not less
2 than twenty-five per cent of the legal voters of said county (such
3 percentage to be based on the total vote cast for governor at the
4 last preceding general election) may sign a petition praying for
5 the building of a road or roads, bridge or bridges, or both road
6 and bridge, in any of the territory of the county of Ohio, including
7 the territory embraced within the corporate limits of the city of
8 Wheeling, in said Ohio county, and praying that the board of com-
9 missioners of the county of Ohio lay a special levy in addition
10 to all other levies allowed by law, on all the taxable property in the
11 county of Ohio, of not to exceed fifteen cents on each one
12 hundred dollars assessed valuation for the year the levy is laid,
13 for a period of years not to exceed five, for the purpose of building
14 any such road or roads, bridge or bridges, or road and bridge, as
15 are described in such petition, and file such petition with the clerk
16 of the board of commissioners of the county of Ohio. Such peti-
17 tion shall contain a statement specifying the road or roads, bridge
18 or bridges, or road or bridge, as the case may be, to be built or im-
19 proved, and shall also contain a statement specifying the general
20 character and construction of any such proposed bridge and the
21 material or materials of which the same shall be constructed, and
22 shall specify the route or routes of any such proposed road or roads
23 and the general construction and materials to be used in building
24 same, and a prayer for the laying of a special levy in addition to
25 all other levies allowed by law, on all the taxable property in the
26 county of Ohio, of not to exceed fifteen cents on each one hun-

27 dred dollars assessed valuation for the year the levy is laid, for a
28 period of years not to exceed five, for the purpose of building any
29 such bridge or bridges, road or roads, or bridge or road, as the case
30 may be. Upon the filing of such petition with the clerk of the
31 said board of commissioners, the said board of commissioners shall
32 determine whether the improvements prayed for shall be made or
33 constructed, all of which shall be in the discretion of said board,
34 and should the board elect to make the improvements prayed for
35 then the board shall without delay instruct the county
36 engineer, or some other engineer specially employed by it,
37 to make an investigation and to report to said board a plan
38 of construction and an estimate of the probable cost of the
39 proposed road or roads, bridge or bridges, or both bridge and road
40 as the case may be, and upon approval of such proposed plan and
41 estimate by the said board of commissioners, the said board shall
42 enter an order setting forth a summary of the engineer's report
43 herein provided for, and also setting forth the probable cost of the
44 proposed improvement, the kind and class of work and materials
45 to be used, and the valuation of all the taxable property of the
46 county of Ohio as shown by the last assessment thereof for pur-
47 poses of taxation; such order shall specify the work for which
48 the money to be raised by the laying of a special levy is to be ap-
49 propriated, and shall provide that no part of the proceeds of such
50 special levy shall be used for any other purposes than the improve-
51 ment specified in the order. The clerk of the said board of com-
52 missioners shall cause as many copies of such order to be made or
53 printed as may be necessary, and shall sign the same; he shall
54 forthwith post one in a conspicuous place in his office, and one at
55 the front door of the court house. At the time of laying county
56 and district levies next following the entering of the aforesaid
57 order by the board of commissioners, the said board shall lay a
58 special levy on all taxable property in Ohio county, in addition
59 to all other levies allowed by law, of not to exceed fifteen cents on
60 each one hundred dollars assessed valuation, to provide funds for
61 the building and construction of the road or roads, bridge or
62 bridges or both road and bridge described in the aforesaid petition
63 and order. and, if the amount of money provided by such special
64 levy be not sufficient to carry out and complete such proposed im-
65 provements as is mentioned in the aforesaid petition and order,
66 then, the said board of commissioners shall, at the time of laying

67 county and district levies, lay a similar special levy in addition
68 to all other levies allowed by law, each consecutive year thereafter
69 for so many years as may be necessary to provide sufficient funds
70 for the building and completion of any such proposed improve-
71 ment; *provided*, that the total number of such annual special
72 levies shall not exceed five for any one proposed improvement.
73 The rights conferred and the powers granted by this section are
74 continuing, and shall not be exhausted by reason of having been
75 once exercised; *provided, however*, that not more than one special
76 levy may be made in any one year under the authority and by
77 virtue of the provisions of this section of this act.

Sec. 5. All of the provisions of this act shall be applicable alike
2 to all of the territory in Ohio county, including the territory em-
3 braced within the corporate limits of the city of Wheeling, and
4 any such improvement as is contemplated and provided for in this
5 act may be located in whole or in part within the corporate limits
6 of the city of Wheeling; the proceeds of any road bonds or special
7 road fund levies provided for by sections one, two and three of this
8 act, and the proceeds of any special levy or levies laid in accord-
9 ance with the provisions of section four of this act, may be used
10 in whole or in part for the building of roads and bridges, or either
11 thereof, located within the limits of the city of Wheeling.

Sec. 6. The powers and authority granted and conferred by
2 this act, both as to the submission to the voters of the county of
3 Ohio, of road bond propositions, or special road fund levy proposi-
4 tions, as provided for in the first, second and third sections hereof,
5 and as to the laying of special levies on the taxable property in Ohio
6 county without the same having been submitted to the voters of
7 said county, as provided for in the fourth section of this act, are
8 in addition to all general provisions of law relating to the issu-
9 ance of county bonds and the laying of levies.

Sec. 7. All acts or parts of acts in conflict with this act are
2 hereby repealed.

House Bill No. 120

(House Bill No. 120—Mr. Hugus.)

AN ACT to authorize the board of commissioners of the county of
Ohio to provide offices in the court house of said county, for the
official reporters of the circuit court of said county.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of commissioners of the county of Ohio be, and the said board is hereby authorized to provide offices in the court house of said county for the official reporters of the circuit court of said county.

House Bill No. 206

(House Bill No. 206—Mr. Strother.)

AN ACT authorizing the appointment of a commission to supervise the erection of a monument and markers to designate the location occupied by the fourth West Virginia infantry regiment during the campaign and siege of Vicksburg, within the Vicksburg national military park, and making an appropriation for the monument and markers and for the expenses of the commission.

Be it enacted by the Legislature of West Virginia:

Section 1. That the governor of West Virginia is hereby authorized to appoint a commission, which shall be called the Vicksburg military park commission, and which shall consist of three members, all of whom shall be veterans of the civil war, one or more of whom shall have been members of the fourth West Virginia infantry regiment, and served in the siege of Vicksburg. The members of the commission shall serve without pay except as to necessary traveling expenses and clerk hire.

Sec. 2. The members of the commission shall cause to be erected a monument and markers within the Vicksburg national military park, to designate the position occupied in the campaign and siege of Vicksburg by the fourth West Virginia infantry regiment, under the supervision of the Vicksburg military park commission.

Sec. 3. The said commission shall at once, after this act takes effect, proceed to carry the same into effect. They shall determine the design and the location of the monument and markers to be erected as contemplated in this act with all convenient speed. The actual expenses of said commission shall be paid out of any fund hereafter appropriated, and they shall report to the governor of the state of West Virginia immediately

8 upon the fulfillment of their duties in detail, making an ab-
9 stract of expenditures with vouchers thereto, with all acts done
10 or made by them; information gathered from their observations
11 and pertinent in its relation thereto, shall be embraced in their
12 report as the commission shall think proper.

House Bill No. 450

(House Bill No. 450—Mr. Thompson.)

AN ACT to amend chapter one of the acts of the legislature, one
thousand nine hundred and five, and re-enact sections twenty-
eight, forty-three and forty-six, relating to the duties and powers
of council, improvement of streets and alleys and repeal of incon-
sistent ordinances and acts for and within the city of Belington.

Be it enacted by the Legislature of West Virginia:

That the council of said city shall have the following general powers
enumerated in sub-divisions of this section from one to eighty-
seven, both inclusive, as follows:

To lay off, open, close, vacate or maintain public grounds,
2 parks, public places, name and re-name the same, to have con-
3 trol and supervision thereover, to protect the same from pun-
4 age or other injury by persons or property, to fix fines and pun-
5 ishments for any injury thereto in violation of any of the orders
6 of said council, and to maintain good order and prevent viola-
7 tions of the ordinances of said city therein or thereon.

8 To establish, maintain and regulate free public libraries and
9 reading rooms and to purchase books, papers, maps, manuscripts
10 and other proper things therefor, to receive donations and be-
11 quests of money or property for the same, in trust or otherwise,
12 and to pay the necessary expenses for establishing, maintaining
13 and regulating the same out of the funds for general purposes;
14 *provided*, such expenditures shall not exceed one hundred dol-
15 lars per annum, unless by a unanimous vote of all the members
16 of the council.

17 To protect divine worship within the limits of said city and to
18 fix fines and punishment for disturbance of any assemblage of
19 people, then and there, met for the worship of God, to prohibit
20 any interference with or disturbance of divine worship or an

21 assemblage of people met together for the worship of God by any
22 person or persons loitering about the premises or places where
23 such worship is being had or such assemblage is met, or from
24 loitering in the public streets or public places adjacent thereto in
25 such manner as to interrupt such worship.

26 To acquire either by purchase, condemnation or any other
27 modes provided by general law, ground within said city for such
28 streets and alleys as the council may deem proper; to locate,
29 lay off, vacate, close, open, alter, grade, straighten, widen or nar-
30 row, pave or re-pave, construct and keep in good repair, the roads,
31 streets, alleys, pavements, sidewalks, crosswalks, drains, viaducts
32 and gutters therein, and such bridges as may be owned or built
33 by the said city, for the use of the public or of any of the citi-
34 zens thereof, and to improve and light the same and to keep the
35 same clean and free from obstruction of every kind; *provided*,
36 the municipality shall not be liable for or responsible in damages
37 for injury to persons or property caused by or from a defect or
38 obstruction in or on the plat of ground between the gutter or curb
39 of any street and the paved or plank sidewalks extending there
40 along or between any such sidewalks and the property lying next
41 adjacent thereto, unless the municipality had actual notice of
42 such defect or obstruction prior to the time of the injury com-
43 plained of; and, *provided, further*, that where said city shall
44 be required to respond in damages by reason of injury to per-
45 sons or property occasioned by the failure of any abutting
46 owner to provide or keep in repair any sidewalk along such prop-
47 erty, after being notified by the council so to do, that such prop-
48 erty owner shall be liable to the city for any sum of money, costs
49 and council fees which it has been required to pay by reason
50 thereof.

51 To regulate the width of sidewalks and the streets and the
52 width and the care of the public grounds or grass plots abutting
53 thereon, and to order the sidewalks, footways, crossways, drains
54 and gutters to be curbed, paved or re-paved and kept in good
55 order, free and clean and to provide for the removal of snow and
56 ice therefrom, and for sprinkling the same by the owners or
57 occupants of the real property next adjacent thereto, and to pro-
58 vide and enforce punishments for obstructing, injuring or pre-
59 venting the free and proper use thereof, and to provide and
60 enforce fines and penalties for throwing therein or thereon any

61 paper, glass, rubbish, decaying substances or other things that
62 would make said streets, sidewalks, grass plots, crosswalks,
63 drains or gutters unsightly or unhealthy.

64 To regulate the use of the walks, highways, bridges, streets,
65 alleys and gutters and the rate of speed of travel thereon, and to
66 prevent and punish for fast riding or driving thereon of any
67 horse, bicycle, wheeled vehicles, wagon, steam or electric or trac-
68 tion engine, motor car or automobile, and to prevent injury to
69 such streets, alleys, roads and highways from overloaded or
70 improperly loaded vehicles, and from dragging logs or other mat-
71 ter thereon, and to regulate the speed of engines or trains or
72 street cars upon or across any such streets, alleys, highways,
73 bridges, public places or any other place where the council deems
74 the public safety requires such regulation.

75 To regulate the planting, trimming and preservation of shade
76 trees by persons and corporations, in streets, alleys, roads, pub-
77 lic grounds and places, and shall require the owner of adjacent
78 property to trim any shade tree or ornamental shrubbery or
79 other tree that in the opinion of the council is an obstruction
80 to the streets, alleys, or sidewalks or a menace to public safety.

81 The council shall have the right to require the owner or
82 occupier of any property in the city to keep his premises clean
83 and free from all matters that would endanger the health of the
84 city, and may require the removal of any waste paper or waste
85 material of any kind or character upon the private property
86 of any citizen or property owner that would cause the spread of
87 fire or when the council deems the same should be removed; and
88 may require the removal or straightening of any fence, wire,
89 pailings or other material enclosing any lot, when, in the opinion
90 of the council, the same is dangerous or obstructs or encroaches
91 upon the streets, alleys or sidewalks; *provided*, that in all such
92 cases, if the owner or occupier of such property fails to do any
93 of the things enumerated in this section required by the council,
94 after notice by the council, the council may take such action as
95 may be necessary to perform such acts and the expenses thereof
96 shall be charged to the property owner and collected as taxes are
97 collected.

98 To regulate the making of division fences and party walls
99 by the owners of adjoining and adjacent premises and lots.

100 To regulate or require drainage by the owner or occupier of

101 any lot or other real estate, by proper drains, ditches, and sewers,
102 and to require the owner or occupier of any lot to fill the same, at
103 his own expense, so that water will not collect in a body thereon,
104 or so the same will not become a menace to public health.

105 To regulate or prohibit street carnivals, or street fairs, or
106 street parades, advertising exhibition, or other exhibitions
107 thereon, or the exhibition of goods, wares, merchandise, material
108 or artificial curiosities upon any street, sidewalk, alley or public
109 place of the said town.

110 To regulate or prohibit the ringing of bells, blowing of steam
111 whistles, or use of hand-organs or other instruments of any
112 annoying character, or other music of itinerant performers in
113 the streets, or public speaking and preaching in the streets,
114 roads, parks or public places of the municipality.

115 To license, regulate or prohibit auctioneering.

116 To license, regulate or prohibit the sale of goods, wares, mer-
117 chandise, drugs or medicine on the streets or other public
118 places.

119 To prevent the illegal sale, offering or exposing for sale, or
120 advertising of spirituous liquors, wine, porter, ale, beer or drinks
121 of a like nature.

122 To prevent the illegal sale of tobacco, cigars, snuff or cigar-
123 ettes, within said municipality, and to prevent the smoking, by
124 any person under twenty-one years of age, of any cigarette, in
125 any public building or upon any public grounds, street, alley,
126 sidewalk or public place within said city, and to fix fines and
127 punishments for violation thereof.

128 To regulate, control or prohibit runners for hotels, boarding
129 houses and eating houses, and to regulate draymen or persons
130 hauling or transporting for hire at and about the railroad depots
131 and stations and other public places and in an assemblage of
132 people within said city.

133 To regulate, assess and collect a license fee for the said city
134 for the doing of anything or business on which a state license is
135 required, subject to the exemption as provided in chapter thirty-
136 two of the code of West Virginia.

137 To provide, assess and collect a license tax from residents in
138 said city who own or operate or run an automobile therein, or
139 from any person, whether a resident of said city or not, who
140 shall run or operate an automobile for hire, or keep the same

141 for hire within said city, *provided*, that any person, not a resi-
142 dent of the city, who shall run or operate an automobile in said
143 city, not for hire, for a longer period than one week at any time,
144 shall be liable to pay the license tax assessed against resident
145 automobile owners.

146 To establish, when the council may deem proper, locate and
147 keep in repair, market places, market houses and regulate mar-
148 kets, prescribe the time for holding the same, to authorize the
149 seizure and destruction of any and all such foods and drink
150 products, as shall be found unwholesome, dangerous or offen-
151 sive, and without recourse against the municipality for its cost
152 or value.

153 To regulate the sale of food and drink products, milk, fresh
154 meats, fish and vegetables, and to provide penalties for the sale
155 of any such that is unwholesome or unfit for use.

156 To regulate and provide for the weighing of hay, coal and
157 other articles for sale in the markets, or to residents of said
158 city.

159 To require the merchants and other persons selling goods,
160 foods or materials that must be weighed, to keep correct scales;
161 to seize and destroy such as are found to be incorrect, and not
162 corrected after due and proper notice to the owner or person using
163 the same, without damage or expense to the municipality for the
164 value thereof.

165 To prevent injury or annoyance to the public or individuals
166 from anything dangerous, offensive or unwholesome.

167 To regulate the keeping, handling and transportation of ex-
168 plosives and dangerous combustibles within the municipality;
169 and to regulate or prohibit the use of fire crackers, sky rockets,
170 toy pistols, air rifles or guns, within the said municipality.

171 To regulate or prohibit the erection or maintenance in what
172 the council deems an improper locality within said city, any
173 garage, blacksmith shop, livery stable, barn, stable, cattle pen,
174 poultry house, pig pen, privy, bill board, sign board, gas or other
175 engine, or anything that would be a menace to persons or prop-
176 erty or public safety, or that would injure private property or
177 annoy citizens of said city.

178 To regulate or prohibit the use of walls or walks for signs; to
179 regulate or prevent the distribution or posting of any sign, bill

180 or other paper that, in the opinion of the council or mayor, is
181 indecent or immoral.

182 To require the removal or abatement of any building, business,
183 bill boards, sign, sign board, or other thing, which, in the opinion
184 of the council, is a nuisance.

185 To regulate or prohibit the distribution of hand bills, circu-
186 lars and other advertisements of like kind, on the streets, roads,
187 alleys and public places, or the placing of same in private yards,
188 buildings or other structures, without having first secured the
189 consent of the owner or occupier of such property.

190 To regulate or prohibit within the municipality or within one
191 mile of its corporate limits, the erection or maintenance of any
192 slaughter house, soap factory, glue factory, lamp black factory,
193 tannery, or other house, shop or factory of like kind or char-
194 acter.

195 To establish within said municipality public drinking foun-
196 tains and water troughs; and to regulate the time and place and
197 manner of bathing in pools, streams and public waters within the
198 police jurisdiction of said municipal corporation.

199 To prevent hogs, cattle, sheep, horses and other animals and
200 fowls of all kinds, from going at large in the municipality; and
201 to establish and maintain places for their detention, make regula-
202 tions respecting the same, appoint a pound master and define his
203 duties and provide for the sale of such property impounded.

204 To arrest, convict and punish any person for committing
205 adultery or fornication, or for any lewd or lascivious co-habita-
206 tion within said city, and for keeping an assignation house,
207 house of ill-fame, or for leasing or letting to any other per-
208 son any house or other building to be kept or used as such, or
209 for knowingly permitting any house, under the control or owned
210 by any person, to be used as an assignation house or house of
211 ill-fame; and to convict and punish for frequenting, entering or
212 loitering in any assignation house or house of ill-fame within said
213 municipality.

214 To arrest, convict and punish any person for importing, print-
215 ing, publishing, selling, giving away, exhibiting, or distributing
216 any book, picture or device, or other thing containing any
217 obscene picture or language, or making any indecent represen-
218 tation.

219 To restrain, convict and punish vagrants, mendicants, beg-
220 gars, tramps, common prostitutes, and their associates, and
221 drunken or disorderly persons within the municipality, and to
222 provide for their arrest and manner of punishment.

223 To prevent and prohibit the use of indecent or profane lan-
224 guage within the corporate limits, and to provide and fix pun-
225 ishment therefor.

226 To prevent and prohibit any tumult, riot, quarrel, angry con-
227 tention or abuse of any person, assault and assault and battery,
228 and to fix punishment therefor.

229 To prevent and prohibit trespass upon private property or the
230 doing of anything which would annoy the owner or occupier of
231 any premises, and to fix and provide fines and punishment there-
232 for.

233 To provide against danger or damages by fires, and to that
234 end, to require, when the council think necessary, an inspection
235 of all the properties within the said city, and to require the
236 owner or occupier of any property in which a defective or dan-
237 gerous chimney or flue is found. to immediately repair the
238 same, and to prevent the use thereof until repaired as required.

239 To prohibit and prevent intoxication or drunkenness and to
240 fix fines and penalties therefor.

241 To prohibit and punish for larceny where the amount stolen is
242 less than twenty dollars.

243 To prohibit, prevent and punish for anything against the
244 good morals and common decency, or that would tend to cor-
245 ruption, vice or crime.

246 To protect the public schools in said city, and to prohibit and
247 prevent any disturbance thereof in and about the buildings or
248 upon the grounds, and to prevent injury, destruction or deface-
249 ment of any school property or building.

250 To establish a board of health and invest it with the neces-
251 sary power to maintain its object, and to fix fines and penalties
252 for any violation of its lawful orders.

253 To establish quarantine, and to erect and maintain pest
254 houses and places of detention, and to make an enforce neces-
255 sary orders for controlling or preventing the spread of infec-
256 tious and contagious diseases, and for abating pestilence.

257 To prohibit the bringing into the corporate limits by railroads,
258 carriers, persons, or in any manner, persons who are paupers or
258-a persons who are afflicted with contagious diseases; to punish by
259 fine, any railroad company, carrier or corporation, by fine
260 or imprisonment, or both, or any person who shall bring into the
261 corporate limits any such pauper or person afflicted with con-
262 tagious disease, knowing or having reason to believe, at the time
263 that such person is a pauper or afflicted with such contagious
264 disease, and to collect and recover from any such railroad com-
265 pany, carrier, or other person, the expense of keeping and main-
266 taining such pauper or diseased person, until such person can be
267 lawfully removed from the corporate limits.

268 To authorize the taking up and providing for the mainten-
269 ance and safe keeping, and educating of (for such period as may
270 be deemed expedient) all children within said city who are desti-
271 tute of proper parental and other care.

272 To arrest, convict and punish any person for cruelly, unnec-
273 essarily or needlessly beating, torturing, mutilating, killing, or
274 overloading, or overdriving, or wilfully depriving of necessary
275 sustenance, any horse or other domestic animals.

276 To regulate the hitching of horses within the corporate limits,
277 and the driving of cows and cattle through, upon and along the
278 streets and alleys of the said city.

279 To prohibit, prevent and punish the pollution of any stream
280 of water running into or through the said municipality; and to
281 prohibit and prevent the throwing into any such stream of any
282 trash, dirt, filth, offal, decayed substances or matters, or anything
283 that would make said water unhealthy or unfit for domestic use.

284 To prohibit, prevent and punish for any desecration of the
285 Sabbath day; prohibit the playing of any game, exhibiting any
286 show, theatre, picture show, and the keeping open of business
287 places, except hotels, eating houses, boarding houses, restaurants,
288 drug stores and places where ice cream or soft drinks are fur-
289 nished.

290 To restrain, prevent and punish fraudulent practices of any
291 kind or character within the municipality.

292 To regulate, control or prohibit any theatre, picture show or
293 carnival, which, in the opinion of the council, would corrupt the
294 morals of the community.

295 To regulate, control or prohibit the maintenance of any public
296 dance hall.

297 To arrest, convict and punish any person for gambling or keep-
298 ing any gaming table, commonly called "faro bank", or table and
299 chips used in playing such game; crap table, chips or dice used
300 in playing such game; or roulette or the wheel, chips or other
301 equipment used in playing such game; or keno table or table of
302 like kind or device used in playing the same; or table of like kind
303 under any denomination, whether the game or games be played
304 with cards, dice or otherwise on which anything is bet or wagered,
305 whether the same be played in any public place or private room
306 or residence; and may convict and punish any person who shall
307 be a partner or concerned in interest in the keeping of any such
308 gambling devices heretofore enumerated, or in any game played,
309 such as is prohibited hereby, or in keeping or maintaining any
310 gambling house or place of gambling for money or anything of
311 value; and shall have the right to destroy such gambling par-
312 aphernalia as may be found in use on any such premises; and
313 any officer armed with a warrant for the arrest of any person
314 engaged in any such unlawful game or for the search of any
315 room in which gambling is suspected, or for the seizure of any
316 gambling paraphernalia, shall have the right to break into any
317 building, other than a private dwelling house, without notice or
318 demand, and into a private dwelling or room, after demand and
319 refusal to open same, to execute any such warrant.

320 To restrain all felons and persons guilty of offenses against this
321 state or the United States, and deliver them over to the authori-
322 ties or court having jurisdiction of the offense whereof such per-
323 sons is accused.

324 To apprehend and punish any person who, without a state
325 license therefor, is guilty of carrying about his person, within
326 the municipality, any revolver or other pistol, dirk, bowie knife,
327 slung shot, razor, billy, metallic or other false knuckles, or any
328 other dangerous or deadly weapons of like kind and character, as
329 provided by chapter fifty-one of the acts of the legislature of one
330 thousand nine hundred and nine, and the punishment therefor,
331 whether for the first or other offenses, shall be that prescribed by
332 said chapter for any such person guilty under the misdemeanor
333 clause provided therein; *provided*, that the mayor acting as *ex-*
334 *officio* justice of the peace, may, after enforcing this ordinance,

335 hold such offender to answer to an indictment in the circuit court
336 of Barbour county for such offense, under the state law.

337 To regulate the erection, construction, alteration and repair of
338 dwelling houses, buildings, and other structures within the mu-
339 nicipality, issue permits therefor, and compel the numbering of
340 the same by the owners or the occupants thereof.

341 To regulate the hangings of doors, the construction of stair-
342 ways and elevators, and require fire escapes in theaters, churches,
343 school buildings, factories and other places deemed necessary by
344 the council.

345 To establish fire limits and to regulate the construction of
346 buildings, and designate materials to be used in the construction
347 of buildings within such limits.

348-349 To regulate the building of fire walls, fire places, chimneys,
350 boilers, smoke stacks, stove pipes, and the burning of waste paper,
351 trash or other waste matter, in the corporate limits.

352 To require any building that, in the opinion of the council, is
353 dangerous, to be repaired, altered or removed by the owners
354 thereof, or put in a safe condition, such as the council may ap-
355 prove, at the expense of such owners or occupier, and to provide
356 punishments for failure to comply with any order of the council
357 concerning same.

358 To regulate the height, construction and inspection of all new
359 buildings hereafter erected, the alteration and repair of any build-
360 ings now or hereafter erected, to require permits to be obtained
361 of the council therefor, and the submission of plans and specifi-
362 cations to the council for its approval; to regulate the limits
363 within which it shall be lawful to erect any steps, porticos, bay
364 windows, awnings, signs, columns, piers, or other projection or
365 structural ornaments of any kind for the houses or buildings on
366 any street or alley.

367 To provide for the prevention and extinguishment of fires, and
368 for this purpose, the council may equip and govern fire com-
369 panies, prescribe the powers and duties of such companies and
370 departments, and of the several officers thereof, or may authorize
371 volunteer fire companies, under such rules and regulations as the
372 council may prescribe, and impose on those who fail to obey any
373 lawful command of the officer in charge of any such company, or
374 volunteer company, any penalty which the council is authorized
375 to impose for violation of an ordinance, and to give authority

376 to any such fire officer to direct the pulling down or destruction of
377 any building, fence, wall or other thing, if such officer deem it
378 necessary, to prevent the spreading of any fire which is being ex-
379 tinguished under the direction of such officer, and without any
380 liability on the municipality for damages therefor.

381 To protect the persons and property within the corporate limits
382 and preserve the peace and good order therein, and for this
383 purpose, to appoint, when necessary, a police force and such other
384 officers as may be deemed necessary; and to provide a lock-up, jail
385 or other suitable place to confine persons sentenced to imprison-
386 ment for violation of the ordinances of said city; *provided, how-*
387 *ever,* that the jail in Barbour county may be used for that pur-
388 pose, if authorized by the county court of said county.

389 To require any person violating any of the ordinances of said
390 city, or any order for which a fine, imprisonment or both is im-
391 posed, to work upon the streets of said city in case of non-pay-
392 ment of said fine, until the same is paid by such labor, or in case
393 of imprisonment is imposed to work upon the streets of said city
394 during the term of such imprisonment in addition to the payment
395 of such fine, under such regulations as the council may pre-
396 scribe.

397 To prescribe the powers, define the duties of the officers ap-
398 pointed under the corporate authority, fix their terms of service
399 and compensation, if not otherwise prescribed by this chapter,
400 and to require and take from them bonds, when deemed necessary,
401 payable to the state of West Virginia, or the city of Belington,
402 with the sureties, and in such penalties as may be prescribed, con-
403 ditioned for the faithful discharge of their respective duties;
404 *provided,* that the compensation of any officer, elected or ap-
405 pointed, shall not be increased nor diminished during the time
406 for which he is elected or appointed.

407 To make regulations with respect to, and have supervision and
408 control over the erection, removal and re-location of all telephone,
409 telegraphs, electric light or other poles within said city, and the
410 extension of wires, lines or poles by any individuals or corpo-
411 rations.

412 To require the extension of any electric light wire, telephone
413 lines, gas line, water system, or other public service within said
414 corporate limits, to meet the needs of the inhabitants, when, in the
415 opinion of the council, such extension is necessary and justifiable.

416 To grant and regulate all franchises in, upon, over and under
417 the streets, alleys and public ways of said city, under such re-
418 strictions as shall be provided by ordinance and general law; but
419 no exclusive franchise shall be granted by said city council to
420 any individual or corporation; nor shall any franchise be granted
421 for a longer period than twenty years.

422 To acquire, erect or authorize or prohibit the erection of gas
423 works, electric light works or water works within the city limits;
424 to prevent injury to such works or the pollution of any gas or wa-
425 ter used or intended to be used by the public or by individuals;
426 and to do all things necessary to adequately supply said city and
427 the inhabitants thereof with pure, healthful and wholesome wa-
428 ter; and to require any company furnishing gas or electricity
429 for sale or distribution in said city, to furnish an adequate sup-
430 ply thereof; to require gas fixtures, electric light wires, telephone
431 wires and all apparatuses used in connection with any of these,
432 to be kept in repair and suitable for use, and free from danger,
433 so far as practicable; to use, generate, distribute, sell and control
434 electricity and gas for heat, light and power, and to furnish light
435 for the streets, highways, buildings, stores and other places in
436 and about said city.

437 To require any gas company or person furnishing gas for
438 said city or the inhabitants thereof, to put in standard meters for
439 the measurement thereof, and may appoint a competent person
440 to inspect the meters and remove the same if not standard and in
441 good order; to prevent injury to any gas works, electric light

442 works, water system or any gas meter or other meter within said
443 municipality.

444 The council shall have the right to require of any water
445 company or person furnishing water for the use of the inhabitants
446 of said city, for hire, compensation or reward, to obey any order
447 of the council with respect to keeping the reservoir or other
448 source from which said water is furnished, free from filth and in
449 good, clean condition, and may require said water company to
450 properly filter the water distributed for use, and may require
451 said company to put in such lines as may be necessary to pump
452 the said water into the reservoir or other receptacle therefor, with-
452-a out pumping the same into the main distributing lines, or in
453 any other way or manner effecting them; and may fix fines and

454 penalties for any failure on the part of any corporation, company
455 or other person distributing water, to obey any order of the council
456 or any authorized officer of the town, respecting same, or any
457 ordinance that may be enacted by the council relative thereto.

458 The council shall have the right to own, maintain, operate and
459 control any electric light or water plant within said city, and
460 to use, generate, distribute, sell and control electricity and gas
461 for heat, light and power, and to furnish light and water for the
462 streets, houses, buildings, stores, and other places in and about
463 said city, and for such electricity or water other than that fur-
464 nished for the municipality in lighting its streets or public places;
465 it may charge reasonable rates, but such rates in all cases shall
466 be uniform; and such electric light or water plant shall be under
467 the supervision and control of the council, and its wires, poles,
468 pipe line, reservoirs, distributing system and machinery shall be
469 kept in such repair so that as little danger as possible shall arise
470 therefrom, and so that same will furnish an adequate supply of
471 electricity and water to all persons in said city desiring to use
472 same.

473 The council shall have the right to provide a sewerage system
474 for said city, and may require the owner of any property abutting
475 upon any street or alley in which a sewer has been laid or placed,
476 to connect a sewer leading from his or her property or lot into
477 any public sewer which is located in such street or alley adjoining
478 same, and pay such fees for tapping, as the council shall pre-
479 scribe, and if the owner or occupier of said lot or property fails
479-a or refuses to do so, after having been given a reasonable notice,
480 the council may enter upon such lot and construct such sewers,
481 and may levy the actual cost thereof including fee fixed by coun-
482 cil for sewer tap against the lot upon which the same is built and
483 collect such costs from the owner of such lot upon which the
484 same is built and collect such costs from the owner of such lot
485 in the same manner as city or state taxes are collected; in addi-
486 tion thereto, the council may punish by fine, or fine and im-
487 prisonment, any person who permits any drainage from his resi-
488 dence or lot to enter upon any street or upon any property after
489 a sewer has been placed in a street or alley adjacent to his property
490 to which he could connect, after notice has been given to him by
491 the council to make such connection.

492 The council shall have the right to impose fines and penalties

493 for any interference with or destruction of the sewer system or
494 any part thereof in said city, or for the destruction of or dam-
495 age to any street, alley or sidewalk in said city, or any improper
496 use thereof; it shall have the right to regulate or prevent the use
497 of the sidewalk for bicycles, push carts, sleds, tricycles, roller
498 skates and other things of like character, and to fix fines and pen-
499 alties for violation of the ordinances respecting same.

500 To grant by ordinance or resolution permits for the temporary
501 use of such parts of its streets, roads, alleys and public places as
502 the council may deem proper and right to be used in the con-
503 struction, alteration or repair of buildings located thereon, or for
504 such other purposes as the council may deem proper and right,
505 and under such regulations and for such time as the council may
506 prescribe.

506-a The council may buy, lease and operate either within or with-
507 out the municipality, stone quarries, crushers and land for said
508 purposes or for the purpose of furnishing a supply of stone or
509 other material suitable for macadamizing or paving the streets,
510 sidewalks and alleys, and improving public property.

511 Whenever in the opinion of the council it is necessary that
512 any sidewalk be built or repaired, it shall first have a competent
513 engineer fix a grade line for such sidewalk and shall then, by
514 order of council, name the character of material out of which
515 same is to be built, and fix the width thereof, and put in such
516 curbing as the council may deem necessary, as well as make the
517 the necessary cuts or fills to conform to grade given, and shall
518 then give notice, in writing, to the owner or occupier of said lot,
519 if he be found, and if he be not found, by posting notice thereof
520 upon the said lot and at the front door of the court house of Bar-
521 bour county for at least ten days, requiring the construction of
522 the said sidewalk in accordance with the requirements of the
523 council, and upon the grade fixed by the said engineer, and if
524 such sidewalk be not built, altered or repaired within twenty
525 days after such notice is first given or posted, the council shall
526 proceed to put the same under its supervision and control, and
527 shall charge the expense thereof against the property along which
528 the same is being placed, altered or repaired, and shall cause an
529 itemized account of the same to be made up and delivered to such
530 property owner or occupier of such premises, if found, and if he
531 be not found, have the same recorded in the county clerk's office

532 of Barbour county, and the same shall constitute a lien upon the
533 said lot or property and shall be collected as other taxes are col-
534 lected; *provided*, nothing herein contained shall prevent the coun-
535 cil from requiring immediate repair of such sidewalks now or
536 hereafter constructed that may become dangerous, and after no-
537 tice to the property owner along which the same run, the council
538 may make such immediate repairs, if the property owner fails
539 to make same after such notice, and the expense thereof shall be
540 a lien in the manner aforesaid.

541 The council shall have the right when in its opinion it is neces-
542 sary or proper so to do to pave or otherwise improve by macadam,
543 tarvia or concrete any street or alley of the said city and to
544-545 charge one-half the cost thereof to the owner of the property on
546 each side of the said street or alley; but the grading and prepar-
547 ing shall be done by the city and paid for out of such funds
548 as the council may provide, but such improvement shall be done
549 and such assessment and charges made against the property own-
550 ers as provided by the general law of the state of West Virginia.

551 To provide for the annual assessment of the taxable property
552 in said city, including dogs kept in said city, and to provide a
553 revenue for the city for municipal purposes and appropriate such
554 revenue to its expenses; *provided*, nothing herein contained shall
555 require the council to keep in repair and maintain any bridge or
556 bridges within said corporation owned by the county of Barbour,
557 but the officers of said corporation in the preservation of law and
558 order shall have jurisdiction over any such bridges within said
559 corporation; and, *provided, further*, that the police regulations as
560 may be ordained by said city, and the right and power to enforce
561 the same shall extend one mile into the state of West Virginia
562 beyond the corporate limits of said city.

563 To create by ordinance such committees or boards, delegates
564 such authority thereto, as may be deemed necessary or advisable
565 by the council.

566 The council may, within any prescribed area, prohibit the erec-
567 tion on any street or in any square, of any building, or of any ad-
568 dition to any building more than ten feet high, unless the outer
569 walls thereof be made of brick and mortar or other fire proof ma-
570 terial. And may require the removal of any building or addition
571 which shall be hereafter erected contrary to this prohibition, at
572 the expense of the owner or owners thereof.

573 The council shall keep all roads, streets and alleys within its
574 limits passable and in good repair, except where such streets are
575 surrendered to the state or county for main highways, and may
576 provide the expenses therefor by a direct taxation, as provided
577 under this charter, or in any other manner authorized by law;
578 and the residents of the said city who are taxed therein for the
579 purpose of maintaining such streets and alleys shall be exempt
580 from the payment of any county road tax.

581 In the enforcement of the ordinances, orders, rules, regulations
582 and by-laws of the said city, no fine shall be imposed exceeding
583 one hundred dollars, and no person shall be imprisoned or com-
584 pelled to labor upon the streets of said city as aforesaid more
585 than thirty days, for any one offense, and in all cases where a
586 fine is imposed for an amount exceeding ten dollars or a person be
587 imprisoned or compelled to labor as aforesaid for a greater term
588 than ten days, an appeal may be taken from such decision upon
589 the same terms and conditions that appeals are taken from a
590 judgment of a justice of this state; and in no case shall a fine of
591 less than ten dollars be imposed where the ordinance prescribes a
592 fine of as much as ten dollars or more, if the defendant requests
593 that such fine be made at least ten dollars for the purpose of ap-
594 peal.

595 The council shall have the right to enforce the attendance of
596 its members at all regular meetings and at all special meetings
597 of which such members have notice, and may cause the arrest and
598 punishment, by fine or fine and imprisonment, of any such mem-
599 ber who refuses to attend and take part in its proceedings.

600 It shall be the express duty of the council to present charges
601 against any of its members, or any officer of the city, who fails to
602 perform, or who does not promptly and diligently perform any
603 duty prescribed by this act, or by any ordinance or resolution of
604 the council, and upon hearing thereof before the council, after
605 notice to such officer, he shall be removed from office by the
606 council, if the charges be found correct.

House Bill No. 537

(House Bill No. 537—Mr. Moore, of Marshall.)

AN ACT to amend and re-enact chapter eighteen of the acts of the
legislature of the year one thousand nine hundred and fifteen

and chapter twelve of the acts of the legislature of the year one thousand nine hundred and nineteen relating to the charter of the city of Cameron in the county of Marshall, state of West Virginia, fixing its corporate limits, prescribing and defining the powers and duties of said city.

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of so much of the county of Marshall as are within the bounds prescribed by section two of this act, now and hereafter residing within said bounds, shall be and they are hereby constituted a body politic and corporate, by and under the name of "The city of Cameron", and as such and in that name shall have perpetual succession and a common seal and may sue and be sued, contract and be contracted with, purchase, lease, hold and use real and personal property for municipal purposes, and generally shall have all the rights, powers and franchises belonging or appertaining to municipal corporations in the state of West Virginia.

Boundaries.

Sec. 2. The boundary of said city shall be as follows:

Beginning at the northeast corner of the county bridge over Grave Creek southwest of site of Baltimore & Ohio railroad shops, thence down said creek N. 87° 35' W. 160 feet to a stake; thence continuing down said creek N. 41° W. 242 feet to a stake; thence leaving the creek and continuing up a drain N. 23° 25' E. 1200 feet to a stake, N. 45° W. 43 feet from a sycamore; thence leaving said drain, continuing through the lands of George Gump, West Lawn Addition, and E. Hall S. 66° 20' 2200 feet to a stake, an original corner to the present corporation line of the town of Cameron; thence following the said present corporation line the following ten courses and distances, S. 85° E. 240 feet; N. 5° E. 985 feet; N. 3° W. 650 feet; N. 1430 E. 688 feet; thence crossing run north of Patterson Glass Company's plant S. 39° 10' E. 249 feet; S. 10° 15' W. 431 feet; S. 1° 45' E. 264 feet; S. 4° 15' W. 379 feet; S. 17° E. 360 feet; S. 24° S. 41 feet to corner of John Crawford's land; thence, leaving the present corporation line, and continuing with line of lands of John Crawford and Lizzie McConaughy N. 72° 50' E. 1712 feet to an iron pin, corner to lands of Lizzie McConaughy and John Crawford; thence

21 through the lands of John Crawford and Geo. N. Yoho, and pass-
22 ing between said Yoho's house and barn, N. $83^{\circ} 50'$ E. 1459 feet
23 to stake in Yoho's line 13 feet South of A. McCracken and Allen
24 Kinsey's lot; thence with Geo. N. Yoho's line, N. $23^{\circ} 15'$ E.
25 492 feet to a stake, corner to lands of Geo. N. Yoho; thence with
26 his land N. $5^{\circ} 20'$ E. 548 feet to a post in Yoho's line and a cor-
27 ner to lands of Jerry A. Fitzgerald and A. McCracken; thence
28 leaving Yoho's line and running with lines of Fitzgerald and
29 McCracken and Simmons, S. $89^{\circ} 15'$ E. crossing the Cameron
30 and Clouston Pike 600 feet to a stake on a flat in field of S. D.
31 McConaughy; thence through the lands of S. D. McConaughy
32 and D. W. McConaughy, S. 19° W. 2660 feet to a locust stump;
33 thence continuing through lands of D. W. McConaughy and J. M.
34 Nichols, S. $83^{\circ} 50'$ E. 2324 feet to a locust tree; thence S. 69° E.
35 1200 feet to the most northerly of three large white oaks on the
36 east side of a drain; thence S. $17^{\circ} 30'$ W. 710 feet to the 28 mile
37 post on the Baltimore & Ohio railroad; thence continuing through
38 the lands of L. L. Howard, S. B. Dallison and J. A. Hicks' heirs
39 S. $87^{\circ} 20'$ W. 2700 feet to a locust tree; thence S. $16^{\circ} 45'$ E.
40 473 feet to a locust tree in J. A. Hicks' heirs and S. B. Dallison
41 line; thence S. $47^{\circ} 15'$ E. 520 feet to a stone in old quarry on a
42 point; thence S. $57^{\circ} 5'$ E. 1248 feet to a stake 175 feet east of a
43 drain; thence S. $42^{\circ} 30'$ W. passing 30 feet east of residence of
44 Nancy Barnett, crossing Ramp Hollow 600 feet to a stake in
45 Henry Wendt's field, thence continuing through lands of said
46 Wendt and J. C. Reid, N. $66^{\circ} 50'$ W. 1709 feet to a corner of J. C.
47 Reid and Dr. W. V. Teagarden; thence through said Teagarden's
48 lands, N. 37° W. 560 feet to a dead white oak in Teagarden's
49 line; thence N. 78° W. 1543 feet to a locust tree; thence A. 73°
50 W. 816 feet to a white oak on the west side of drain in W. Cham-
51 bers' lot; thence through the lands of said Chambers and Harry
52 Moose, passing between barn and house of said Harry Moose, N.
53 73° W. 1280 feet to a stake; thence through the lands of Harry
54 Moose, Elder Company, Mrs. Anderson, G. W. McCracken and
55 David Gump, N. 62° W. 1790 feet to a stake at top of bank in
56 David Gump's field; thence N. $29^{\circ} 15'$ W. 951 feet to the begin-
57 ning, containing, approximately, 50 acres, according to survey
58 made by R. C. Yoho, county surveyor, January fifth and sixth,
59 one thousand nine hundred and fifteen.

Wards.

Sec. 3. The territory of said city is hereby divided into three wards, as follows: All that part of the city lying south of the Baltimore & Ohio Railroad shall constitute the first ward; that part lying east of Bridge Street and North Avenue and north of the Baltimore & Ohio Railroad shall constitute the second ward and all that portion lying west of Bridge Street and North Avenue and north of the Baltimore and Ohio Railroad shall constitute the third ward. The council of the city may change the different wards, but regard shall be had to equality of population.

Officers.

Sec. 4. The officers of said city shall be a mayor, chief of police, clerk, who shall be *ex-officio* collector; solicitor, treasurer, health officer, and six councilmen. The mayor and six councilmen shall be elected by qualified voters of said city. The clerk, solicitor, treasurer, health officer and such other officers as may be needed from time to time, shall be appointed by the council, and the councilmen shall be elected by the qualified voters of their respective wards. No person shall be eligible to any elective office unless he is a qualified voter thereof, nor unless he has resided therein for at least six months before his election, and in case of a councilman, unless he be a *bona fide* resident of the ward in which he is elected; and the removal of a councilman from the ward in which he was elected shall vacate his office, and no person shall be eligible to any city office unless he is a taxpayer and a qualified voter thereof.

Sec. 5. The municipal authorities of said city shall consist of the mayor and councilmen, who together shall form a common council, and all the corporate powers of said corporation shall be exercised by said council or under its authority, except where otherwise provided.

Elections.

Sec. 6. The first election held hereunder shall be on the first Thursday in January, one thousand nine hundred and twenty-two and biennially thereafter. Every person who has been a *bona fide* resident of the city for three months next preceding any election, and otherwise a qualified voter under the constitution and laws of the state, shall be entitled to vote

7 at such election, in the ward in which he resides. The elec-
8 tion shall be held, conducted and results thereof be ascertained,
9 returned and determined under such rules and regulations as
10 may be prescribed by the council, which shall not be inconsistent
11 with the general laws of the state governing municipal elec-
12 tions, and shall conform as nearly as practicable to such laws.
13 contested elections shall be heard and decided by council, and
14 the proceedings therein shall conform as nearly as may be to
15 similar proceedings in the case of county and district officers.
16 The council shall be the judge of the election, return and quali-
17 fication of its own members. In case two or more persons re-
18 ceived an equal number of votes for the same office, if such num-
19 ber be the highest cast for such office, the city council shall de-
20 cide by vote which of them shall be returned elected, and shall
21 make their return accordingly.

Terms of Officers.

Sec. 7. The term of office of the mayor shall begin on the
2 first day of February next succeeding his election, and shall be
3 for the term of two years, and until his successor shall have been
4 elected and qualified. The clerk, solicitor, marshal, health
5 officer and such other officers, including a treasurer, as may be
6 needed from time to time, shall be appointed by the council and
7 shall hold their office during the pleasure of the council. Any
8 former incumbent shall be ineligible for a second appointment
9 unless he shall have fully settled up the business of his former
10 term or terms. At the first election provided for in section six, of
11 this act, there shall be elected a mayor and one councilman
12 from each ward, whose terms of office shall begin on the first day
13 of February, next succeeding their election and shall be for the
14 term of two years and until their successors are elected and
15 qualified, and one councilman from each ward, whose term of
16 office shall begin on the first day of February next succeeding
17 his election, and who shall hold office for the term of four years,
18 and until his successor is elected and qualified. On the same
19 day in each succeeding two years one councilman from each
20 ward shall be elected and shall hold office for four years from
21 the first day of February next succeeding his election and until
22 his successor is elected and qualified. At said first election

23 hereunder, it shall be designated on the official ballot of election
24 whether the candidates for councilman are being voted on for
25 the long term of four years or the short term of two years. But
26 nothing in the section shall be construed to invalidate the elec-
27 tion or term of office of any councilman elected to office and
28 whose term of office began on the first Monday in February in
29 the year one thousand nine hundred and twenty, under the pro-
30 visions of section seven of chapter eighteen of the acts of the
31 legislature one thousand nine hundred and fifteen.

32 The council of said city shall have the right to fix a compen-
33 sation for the members thereof, which compensation, however,
34 shall not exceed fifty dollars per year to each member.

Sec. 8. Every person elected or appointed to any office in
2 said city shall within twenty days after his election or appoint-
3 ment and before entering upon the discharge of the duties thereof,
4 take and subscribe the oath of office prescribed by law for offi-
5 cers generally, which may be done before the mayor or clerk of
6 said city, or before any person authorized by law to administer
7 oaths; and the same, together with the certificate of the officer
8 administering the oath, shall be filed with the clerk of said city.

Council.

Sec. 8-a. The council shall prescribe the powers and define
2 the duties of all officers by it appointed, except so far as the same
3 are by this act defined; shall fix their compensation, and may
4 require and take from them respectively, bonds payable to the
5 city in its corporate name with such sureties and in such penalties
6 as may be deemed proper, conditioned for the faithful perform-
7 ance of their duties.

Sec. 9. The council shall require and take from all officers
2 elected or appointed as aforesaid, whose duty it shall be to receive
3 funds, assets or property belonging to the city, or having charge
4 of the same, such bonds, obligations or other writings as may be
5 deemed necessary and proper to secure the faithful performance
6 of their several duties. All bonds, obligations or other writings
7 taken in pursuance of any of the provisions of this act shall be
8 made payable to "The City of Cameron," with such sureties and
9 in such penalties as may be deemed proper, conditioned for the
10 faithful performance of their duties and for the accounting for

11 and paying over, as required by law, all moneys coming into their
12 hands by virtue of their offices, and the respective persons and
13 their heirs, executors and assigns bound thereby, shall be subject
14 to the same proceedings on said bonds, obligations and other
15 writings, for enforcing the conditions of the terms thereof, by
16 motion or otherwise, before any court of competent jurisdiction
17 held in and for the county of Marshall, that collectors of county
18 levies and other sureties are or shall be subject to on their bonds
19 for enforcing the payment of the county levies.

Sec. 10. The council shall have the authority to remove from
2 office any elected officer of the city for misconduct or neglect of
3 duty, by an affirmative vote of three-fourths of the members of
4 the council, but only after reasonable notice to such officer, and
5 a hearing of the charges preferred; and any vacancy in office, how-
6 ever occasioned, may be filled by the council for the unexpired
7 term.

Sec. 11. The council shall fix the place and time of holding
2 its regular meetings; may provide for special and adjourned meet-
3 ings; shall have power to compel the attendance of its members;
4 and may prescribe rules and regulations, not inconsistent here-
5-6 with, for the transaction of business and for its own guidance
7 and government. The council shall be presided over at its
8 meetings by the mayor, or in his absence by the clerk, or in the
9 absence of both the mayor and clerk, then one of the council-
10 men selected by a majority of the council present who may vote
11 on any question as member of the council. The mayor shall
12 have a vote only in case of a tie and in no case shall the presid-
13 ing officer have more than one vote. A majority of the council
14 shall be necessary to constitute a quorum for the transaction of
15 business. No member of the council shall vote upon or take
16 part in the consideration of any proposition in which he is or may
17 be interested otherwise than as a resident of said city.

Sec. 12. The council shall cause to be kept by the clerk in
2 a well bound book to be called the "Minute Book," accurate
3 copies of all its proceedings, ordinances, acts, orders, and resolu-
4 tions, and in another to be called the "Ordinance Book" accurate
5 copies of all the ordinances adopted by the council, both of which
6 shall be fully indexed and open to the inspection of any one re-
7 quired to pay taxes to the city, or who may be otherwise inter-
8 ested. All oaths and bonds of officers of the city and all papers

9 of the council shall be endorsed, filed and securely kept by the
10 clerk, except the bond of the clerk, which shall be filed with the
11 mayor. All printed copies of such ordinances purporting to be
12 published under authority of the council, and transcripts of such
13 ordinances, acts, orders and resolutions, certified by the clerk
14 under the seal of the city, shall be deemed *prima facie* correct,
15 when sought to be used as evidence in any court or before any
16 justice.

Sec. 13. At each meeting of the council, the proceedings of
2 the last meeting shall be read, and if erroneous, corrected, and
3 signed by the presiding officer for the time being. Upon the call
4 of any member, the yeas and nays on any question shall be
5 taken and recorded in the minute book.

Sec. 14. No ordinance or by-law, and no resolution or meas-
2 ure for the expenditure of money other than to defray the cur-
3 rent and incidental expenses of the city, shall be deemed passed
4 or adopted unless it shall have been fully read at two consecutive
5 meetings of the council, and shall have received a majority of the
6 votes of the members present, when it shall stand and be declared
7 adopted and not otherwise.

Sec. 15. The council of said city shall have power to lay off,
2 vacate, close, open, alter, grade and keep in good repair the
3 roads, streets, alleys, pavements, sidewalks, cross-walks, drains
4 and gutters therein for the use of the citizens or of the public,
5 and to improve and light the same, and to keep the same free
6 from obstructions of every kind; to regulate the width of pave-
7 ments and sidewalks on the streets and alleys, and to order
8 the pavements, sidewalks, footways, drains and gutters to be
9 kept in good order, free and clean, by the owners or occupants
10 of the real property next adjacent thereto; to establish and reg-
11 ulate markets, prescribe the times of holding the same, provide
12 suitable and convenient buildings therefor, and prevent
13 forestalling or regrating of such markets; to prevent injury or
14 annoyance to the public or to individuals from anything danger-
15 ous, offensive or unwholesome; to prohibit or regulate slaughter-
16 houses and soap factories within the city limits; or the exercise
17 of any unhealthy or offensive business, trade or employment;
18 to abate all nuisances within the city limits, or to require and
19 compel the abatement or removal thereof, by or at the expense of
20 the person causing the same, or at the expense of the owner or

21 occupant of the ground on which they are placed or found; to
22 cause to be filled up, raised or drained by or at the expense of
23 the owner, any city lot or tract of land covered or subjected to
24 be covered by stagnant water; to prevent horses, hogs, dogs, cattle,
25 sheep, or other animals and fowls of all kinds from going or being
26 at large in such city, and as one means of prevention, to pro-
27 vide for impounding and confining such animals and fowls, and
28 upon failure to reclaim, for the sale thereof; to protect places
29 of divine worship and to preserve order in and about the prem-
30 ises where and when such worship is held; to regulate the keep-
31 ing of gunpowder and other inflammable or dangerous sub-
32 stances; to provide and regulate the building of houses or other
33 structures, and for the making and maintaining of division fences
34 by the owners of adjoining premises, and for the proper drainage
35 of city lots or other parcels of land, by or at the expense of the
36 owner or occupant thereof; to provide against damage or danger
37 by fire; to punish for assaults and batteries; to arrest, convict
38 and punish any person for gambling or keeping gaming tables,
39 commonly called A, B, C, or E. O, table or faro bank or keno
40 table, or table of like kind, under any denomination, whether
41 the game or table be played with cards, dice or otherwise, or
42 shall be a partner, or concerned in interest, in the keeping or
43 exhibiting such table or bank, or keeping or maintaining any
44 gaming house or place, or betting or gambling for money or
45 any thing of value; to suppress houses of ill-fame and to arrest
46 and punish persons loitering in, or visiting them, or loitering
47 in saloons, or upon the streets; to prevent lewd and lascivious
48 conduct; the sale or exhibition of indecent pictures or other
49 representations; the desecration of the Sabbath day; profane
50 swearing; the illegal sale of all intoxicating liquors, drinks, mix-
51 tures and preparations, beer, ale, wine, or drinks of like nature;
52 to protect the persons of those residing or being within said
53 city; to appoint when necessary or advisable a police force, per-
54 manent or temporary, to assist the chief of police in the dis-
55 charge of his duties; to build or purchase, or lease and to use,
56 a suitable place within or near said city for the safe keeping
57 or punishment of persons charged with or convicted of the viola-
58 tion of ordinances; to provide for the employment of persons con-
59 victed of the violation of ordinances or who may be committed
60 in default of the payment of fines, penalties or costs, and who are

61 otherwise unable to discharge the same, by putting them to
62 work for the benefit of the city, and to use such means to prevent
63 their escape while at work, as they may deem expedient; to erect,
64 or authorize or prohibit the erection of gas works, electric light
65 works, or water works within the city limits; to prevent injury to
65-a such works or the pollution of any gas or water used or intended
66 to be used by the public or by individuals, and to do all things
67 necessary to adequately supply said city and the inhabitants
68 thereof with pure, healthful and wholesome water to use, gen-
69 erate, distribute, sell and control electricity and gas for heat,
70 light and power and to furnish light for the streets, houses, build-
71 ings, stores, and other places in and about said city; to provide a
72 sewerage system for said city; to provide for and regulate the
73 weighing and measuring of hay, coal, lumber and other articles
74 sold or kept or offered for sale, within said city; to regulate the
75 running and speed of engines and cars within the said city, ex-
76 cept that the council of said city shall not interfere with the speed
77 of trains and engines beyond the corporation line of the city of
78 Cameron as heretofore existing, until the said new territory shall
79 be laid out in lots, streets and alleys, and opened and used by the
80 public; to organize one or more fire companies and provide neces-
81 sary apparatus, tools, implements, engines or any of them for
82 their use, and in their discretion to organize a paid fire depart-
83 ment; to make regulations with respect to the erection and loca-
84 tion of all pipes, conduits and telephone, telegraph, electric light
85 or other poles within said city, and the extension of any wires,
86 lines and poles by any individuals or corporation; to create by
87 ordinances such committees or boards, and delegate such author-
88 ity thereto as may be deemed necessary or advisable; to provide
89 for the annual assessment of the taxable property therein, includ-
90 ing dogs kept in said city, and to provide a revenue for the city
91 for municipal purposes, and to appropriate such revenue to its
92 expenses, and generally to take such measures as may be deemed
93 necessary or advisable to protect the property, public and pri-
94 vate, within the city; to preserve and promote the health, safety,
95 comfort and well being of the inhabitants thereof.

96 The council of said city shall have power and authority to
97 control and regulate the construction and repairs of all houses
98 and other buildings within the said city; to provide for the grant-
99 ing of building permits; to cause the removal of unsafe walls

100 or buildings and may prohibit the erection on any such street,
101 or in any such square, of any building, or of any addition to any
102 building unless the outer walls thereof be made of brick and
103 mortar or other fire proof material; and to provide for the re-
104 moval of any building or addition which shall have been erected
105 contrary to such prohibition, at the expense of the owner or
106 owners thereof.

107 The said council of said city shall have any and all additional
108 power and authority granted to cities, towns and villages here-
109 tofore enacted or hereinafter to be enacted by the legislature of
110 West Virginia, under general statutes.

Franchises.

Sec. 16. Franchises may be granted by the city council to
2 persons or corporations allowing such occupancy of portions of
3 the streets and alleys as may be necessary for works of public
4 utility and service, but no such franchise shall hereafter be
5 granted except under the following restrictions and conditions:
6 No ordinance shall be passed granting any franchise for the use
7 of any of the streets or alleys of the city for any of the purposes
8 above named, until the same shall have been filed with the clerk
9 at least thirty days prior to the time when it is to be acted upon
10 by the council, and notice of such application, stating the object
11 of such franchise, and when the same will be considered by
12 the council, shall have been given thirty days notice in some
13 newspaper of general circulation published in the city.

14 Nor shall such franchise be granted within thirty days after
15 the application has been filed, nor until an opportunity has been
16 given any citizen or corporation interested in the granting or
17 refusing of said franchise to be heard.

18 Nor shall any franchise be hereafter granted by council for a
19 longer period than fifty years; *provided*, that the council shall
20 have the power to renew any such franchise for the term of fifty
21 years when the same shall have expired. No franchise hereafter
22 granted for a longer term than fifty years shall be of any force
23 or validity. No grant of any such franchise shall be made
24 without at the time of making it providing that the grantee, its
25 successors or assigns, shall indemnify the city against all dam-
26 ages caused by the construction of such works. Any corporation
27 or person to whom a franchise has been heretofore or may here-

28 after be granted, or their successors or assigns, who shall fail
29 to comply with the condition of the ordinance granting such
30 franchise within one year from the time said conditions are di-
31 rected to be performed, said franchise shall be and the same
32 become null and void.

Sec. 17. To carry into effect these enumerated powers and
2 all others by this act or by general law conferred, or which may
3 hereafter be conferred upon the said city or its council or any of
4 its officers, the said council shall have and possess full authority
5 to make, pass and adopt all needful ordinances, by-laws, orders
6 and resolutions not repugnant to the constitution and laws of
7 the United States or of this state; and to enforce any or all of
8 such ordinances, by-laws, orders or resolutions by prescribing for
9 a violation thereof, fines and penalties and imprisonment in
10 either the county jail of Marshall county, or the city prison if
11 there be one; but no fine shall exceed one hundred dollars, and
12 no term of imprisonment shall exceed ninety days. Such fines
13 and penalties shall be imposed and re-covered, and such imprison-
14 ment inflicted and enforced, by and under the judgment of the
15 mayor of said city, or in case of absence or inability to act, of
16 the clerk of said city, or in case of absence or inability to act
17 of both of said officer, of one of the councilmen, appointed for
18 that purpose by the council.

Mayor.

Sec. 18. The mayor shall be the chief executive officer of
2 the city and shall see that the orders, by-laws, ordinances and
3 regulations of the council thereof are faithfully executed; he
4 shall be *ex-officio* a justice and conservator of the peace within
5 the city and shall within the same have, possess and may exer-
6 cise, all the powers and perform all the duties whether in civil
7 or criminal proceedings, vested by law in a justice of the peace.
8 Any summons, warrant or other process, issued by him, may be
9 executed at any place within the county; he shall have power
10 during the recess of the regular meetings of council to appoint
11 special police officers when he shall deem it necessary, and it
12 shall be his duty to see that the peace and good order of the city
13 are preserved, and that persons and property therein are pro-
14 tected; and to this end he may arrest and detain, or cause the
15 arrest and detention, of all riotous and disorderly persons be-

16 fore taking other proceedings in the case; he shall from time
17 to time recommend to the council such measures as he may deem
18 needful for the welfare of the city; he shall not receive any money
19 due or belonging to the state or corporation or to individuals,
20 unless and until he shall have given the bond and security of
21 a justice of the peace by chapter fifty of the code of West Vir-
22 ginia; and all the provisions of said chapter relating to moneys
23 received by justices shall apply to moneys received by him in like
24 cases.

25 The mayor shall receive a salary of not less than three hun-
26 dred nor more than five hundred dollars per annum; such sal-
27 ary shall be in lieu of the fees which would otherwise accrue to
28 him in proceedings for the enforcement of ordinances, but all
29 such fees shall be collected when practicable, and accounted for
30 to the city, and he may tax such costs against any person or corpor-
31 ation found guilty of the violation of any ordinance of the city,
32 as are provided to be taxed and recovered by justices of said
33 county in criminal cases.

Sec. 19. The process in proceedings to enforce any ordinances
2 prescribing a fine or imprisonment, or a fine and imprisonment,
3 for the violation thereof, shall be a summons in the name of the
4 city of Cameron as plaintiff, directed to the chief of police,
5 to one of the regular police officers of the city, or to any con-
6 stable of any district within the said city, requiring him to sum-
7 mon the person accused of such violation, and who shall there-
8 after be designated as defendant, to appear before the mayor at
9 the time and place therein named to make answer to such accusa-
10 tion and be dealt with according to law; such summons shall
11 contain such statement of the facts alleged as will inform such
12 person of the general nature of the offense against the city of
13 which he stands charged, and except in cases of arrest upon view,
14 shall be issued only upon the complaint, on oath, of some credible
15 person. But the mayor for good cause appearing, by endorse-
16 ment of the summon, may order the person so accused to be forth-
17 with apprehended and brought before him for a hearing of the
18 charge. The clerk of said city, as well as the mayor, shall have
19 authority to receive any complaint in writing of the violation of
20 any ordinance, and to sign and issue the proper summons based
21 upon such complaint. The mayor shall have, possess and may
22 exercise the power and authority belonging to a justice under sec-

23 tions two hundred and twenty-four and two hundred and twenty-
24 five of chapter fifty of the code of West Virginia, in summoning
25 and enforcing the attendance and examination of witnesses, in
26 punishing for contempt, in granting continuances, and in secur-
27 ing and enforcing the further attendance of the accused with a
28 view to a trial or hearing. If any recognizance be taken for
29 such further attendance, and is forfeited, the mayor may record
30 the default, and an action be maintained in the name of the city,
31 before the mayor, or any justice having jurisdiction, against
32 the accused and his sureties, if any to recover the penalty thereof.'

Sec. 20. The mayor shall have the power to issue an execu-
2 tion for any fine and costs assessed or imposed by him, for the
3 violation of any ordinance, or he may at the time of rendering
4 judgment therefor, or at any time thereafter and before satisfac-
5 tion of such judgment, by his order in writing, require the imme-
6 diate payment thereof; and in default of such payment he may
7 cause the person so in default to be apprehended and brought be-
8 fore him, and commit him to the jail of Marshall county or
9 in his discretion to the prison of said city, if one shall have been
10 provided, until the fine and costs are fully paid; but such im-
11 prisonment shall not exceed thirty days.

Sec. 21. The mayor shall, with the consent of council and not
2 otherwise, appoint one or more policemen, as the council may
3 determine.

4 Each policeman appointed as prescribed by this section shall,
5 before entering upon the discharge of his duties, execute a bond
6 conditioned for the faithful performance by him of the duties of
7 his office and as is required by law, and for the accounting for and
8 paying over, as is required by law, all money which may come into
9 his hands by virtue of his office, with sureties satisfactory to the
10 council, in a penalty of not less than one hundred dollars nor
11 more than five thousand dollars, as the council may prescribe.

Sec. 22. In case a violation of any ordinance of said city is
2 committed in the presence, or within view of any of the police
3 officers, the offender may be forthwith apprehended and taken be-
4 fore the mayor, and a complaint under oath, stating such viola-
5 tion, there lodged and filed; and thereupon such offender may be
6 tried and dealt with according to law, without summons. Any
7 of the police officers shall execute, within the county of Marshall,
8 when directed to him, any proper process issued by the mayor in

9 proceedings for the enforcement of ordinances; and shall collect
10 by levy of execution, or otherwise, and duly account for, all fines
11 assessed and costs imposed in such proceedings. He shall also
12 have all the rights and powers, within said city, in regard to the
13 arrest of persons, the collection of claims, and the execution and
14 return of process, that are or may be lawfully exercised by a con-
15 stable of a district within the same, and shall be entitled to the
16 compensation therefor; and he and his sureties shall be liable
17 to all fines, penalties and forfeitures that a constable is liable, for
18 any dereliction of duty in office, to be recovered in the same man-
19 ner, and in the same courts, that such fines, penalties and for-
20 feitures are recovered against constables.

Mayor's Docket.

Sec. 23. A book well bound and indexed, to be denominated
2 the "docket" shall be kept in the office of the mayor, in which
3 shall be noted each case brought or tried by him, together with the
4 proceedings therein, including a statement of complaint, the sum-
5 mons, the return, the fact of appearance or non-appearance, the
6 defense, the hearing, the judgment, the costs, and in case the
7 judgment be one of conviction, the action taken to enforce the
8 same; the record of such case shall be signed by the mayor or other
9 person acting in his stead; and the original papers thereof, if
10 no appeal be taken, shall be kept together and preserved in his
11 office.

Appeal.

Sec. 24. In any case for the violation of an ordinance of
2 the said city, in which there is a judgment by the mayor of im-
3 prisonment, or for a fine of more than ten dollars, an appeal shall
4 lie at the instance of the person against whom such judgment is
5 rendered to the circuit court of Marshall county. Such appeal
6 shall not be granted by the mayor unless, within ten days from the
7 date of the judgment, such person shall enter into a recognizance,
8 with security deemed sufficient, in a penalty double the amount of
9 fine and costs, with condition that the person appealing will ap-
10 pear before the said court on the first day of the next term thereof,
11 to answer for the offense against the city with which he stands
12 charged, and not thence depart without leave of said court, and
13 will perform and satisfy any judgment which may be rendered
14 against him by the circuit court, on appeal. The provisions of

15 chapter one hundred and sixty-two of the code of West Virginia,
16 relating to recognizance in criminal cases, shall be applicable to
17 the recognizance contemplated by this section, except where here-
18 in otherwise provided; but any money recovered thereon or by
19 virtue thereof shall inure to the said city.

Sec. 25. If such appeal be taken the mayor shall forthwith
2 deliver to the clerk of said court the complaint in writing, if
3 any, the summons, a transcript of the record including the judg-
4 ment, the recognizance, and any other papers belonging to the
5 case; and such clerk shall receive and file the same, and place the
6 case upon the trial docket of the next succeeding term of said
7 court, and said court shall proceed to try the same in its order.

Sec. 26. If the appellant be found guilty of a violation of
2 the ordinance in question, whether upon the verdict of a jury or
3 otherwise, the court shall ascertain by its judgment the fine or
4 imprisonment or the fine and imprisonment to be paid or suffered
5 by such defendant, having regard to the punishment prescribed by
6 such ordinance, and shall include in any such judgment the costs
7 incurred by said city, as well in the proceedings before the
8 mayor as those in court, including a fee to the attorney for the
9 city of five dollars, and the fees, if any, of the jailor or the
10 keeper of the city prison; and the proceedings to enforce the col-
11 lection of any such fine and costs, as may be provided in sections
12 ten, eleven and twelve of chapter thirty-six of the code of West
13 Virginia, except that the writ mentioned in the tenth section may
14 be issued by the clerk upon the order of the mayor of the city,
15 and the notice contemplated by the eleventh section shall be given
16 to such officer.

Sec. 27. From all judgments by the mayor in cases other
2 than for violation of ordinances, appeals shall be allowed as in
3 similar cases before justices.

Solicitor.

Sec. 28. It shall be the duty of the solicitor to prepare, when
2 directed by council, all ordinances for said city, to represent the
3 said city in all matters and proceedings in any court in which the
4 said city is interested, and counsel the said council when requested;
5 he shall receive as compensation for his services, to be fixed by the
6 council.

Health Officer.

Sec. 29. The health officer shall perform such duties as may
2 be provided by any ordinance of said city or by resolution of the
3 council, and shall receive a salary at the rate of not more than
4 three hundred dollars per year. He shall receive no compensation
5 from said city, other than the salary herein provided.

Treasurer.

Sec. 30. The treasurer may be any citizen, a bank or trust
2 company of said city, and shall be selected by council and may
3 hold office during the pleasure of the council. All money due the
4 city shall be paid to the clerk, and be by the clerk deposited with
5 the treasurer. The money deposited with the treasurer shall be
6 disbursed only upon orders drawn against the same, signed by the
7 mayor and countersigned by the clerk. The treasurer shall receipt
8 to the clerk for all money paid by him, and shall keep regular
9 books of account, showing the amount of the several funds paid
10 or deposited with the treasurer by said clerk, and shall make report
11 to the council once a month or at such other times as the council
12 may direct, showing the receipts and disbursements of the funds
13 of the city, and the treasurer shall produce his books of account
14 to the council or any committee of the same for inspection, upon
15 the order of the council.

16 The treasurer shall give bond, with security to be approved by
17 the council, in a sum of not less than five thousand dollars, with
18 condition that the said treasurer shall account and pay over all
19 money received for the account of said city, as may be directed
20 by the council. The said treasurer shall receive such compensa-
21 tion as the council may fix, which shall not be more than at the
22 rate of two hundred dollars per annum. Any bank or trust com-
23 pany of said city is hereby authorized to act as treasurer of said
24 city, and the same shall be liable for all money deposited therein.

Street Commissioner.

Sec. 31. The street commissioner shall perform such duties as
2 are now, or which may hereafter be imposed upon him by any
3 ordinance of said city, and shall receive such compensation as may
4 be fixed by council, which shall be at the rate of not less than five

5 hundred dollars nor more than seven hundred and fifty dollars
6 per annum.

City Engineer.

Sec. 32. The city engineer shall be selected by the council,
2 and shall hold office during the pleasure of the council; he shall
3 perform such duties as may be required of him by the council or
4 provided by ordinance of said city, and his compensation there-
5 for shall be fixed by the council.

Lien for Taxes.

Sec. 33. There shall be a lien on real estate within said city
2 for the city taxes assessed thereon, and for all fines and penalties
3 assessed to, or imposed upon the owners thereof, by the authori-
4 ties of such city, from the time the same are so assessed or im-
5 posed, which shall have the priority over all other liens, except
6 the lien for taxes due the state, county and district; and which
7 may be enforced by the council in the same manner provided by
8 law for the enforcement of the lien for county taxes. If any real
9 estate within said city be returned delinquent for the non-payment
10 of the delinquent taxes thereon, a copy of such delinquent list may
11 be certified by the council to the auditor, and the same may be
12 sold for the city taxes, interest and commission thereon, in the
13 same manner, at the same time and by the same officer as real
14 estate is sold for non-payment of state taxes.

Licenses Generally.

Sec. 34. The council shall have the authority to require a city
2 license as follows: For anything to be done, carried on or exhib-
3 ited within the city, for which a state license is now or may here-
4 after be required, for the keeping of hacks, carriages, carts, wagons
5 and other vehicles for hire within the city, and for keeping of
6 dogs within the city, and the council may provide for the killing
7 of all dogs, the keeping of which is not so licensed. And upon
8 all such licenses the council may impose a reasonable tax for the
9 use of the city.

Sec. 35. The council shall prescribe by ordinance the manner
2 in which licenses of all kinds shall be applied for and granted, and
3 shall require the payment of the tax thereon to be made to the

4 clerk of said city before delivery to the person applying therefor,
5 and the provisions of section forty-one of chapter thirty-six of
6 the acts of one thousand nine hundred and five, and the provis-
7 ions of section forty of chapter eighty-two of the acts of one
8 thousand nine hundred and seven, extra session, of the legisla-
9 ture of West Virginia, relating to licenses, shall govern the city
10 in the granting of licenses similar in character to those therein
11 mentioned, except where otherwise herein provided. Licenses for
12 keeping dogs shall also expire on the thirtieth day of June next
13 after they are granted, and all other licenses may be for such
14 times as the council may determine.

Power to Condemn.

Sec. 36. The council shall have the right to institute proceed-
2 ings, in the name of the city, for the condemnation of real estate
3 for streets, alleys, avenues, sewers, drains, market grounds, land-
4 ings, wharves, city prison, or other work or purpose of public
5 utility; such proceedings shall conform to the provisions of chapter
6 forty-two of the code of West Virginia, and the costs thereof shall
7 be borne by the city, except that in contests involving a hearing
8 in the circuit court, costs shall be recovered by the prevailing
9 party.

Clerk.

Sec. 37. It shall be the duty of the city clerk to keep a
2 journal of the proceedings of the council and have charge of and
3 preserve the records, papers, contracts and other documents be-
4 longing to the city; it shall be his duty to attend the sessions
5 of the police court and keep an accurate record of its proceed-
6 ings, and all judgments shall be entered by him within twenty-
7 four hours after the same are rendered; he shall, in case of sick-
8 ness or disability of the mayor to act, or in case of his absence
9 from the city, or during any vacancy in the office of the mayor,
10 perform the duties of mayor, and shall be vested with all the
11 powers necessary for the performance of such duties; he shall
12 also perform such other duties pertaining to the fiscal affairs
13 of the city, or otherwise, as may be required of him by this
14 act or by the council.

15 The officer whose duty it is to make out the land books for
16 Marshall county shall, annually, at such compensation as agreed
17 upon with council, not later than the fifth day of August, fur-

18 nish to the clerk, showing in separate amounts, the aggregate
19 value of all the personal property and the aggregate value of all
20 the real estate in the city, as ascertained from the land and
21 personal property books of said county for the current year;
22 upon receiving said statement the clerk shall present the same
23 to council at a meeting to be held not later than the second Tues-
24 day in August, for the purpose of determining the rate of levy in
25 said city for the current year; as soon as the rate of levy shall have
26 been fixed by council, the clerk shall furnish the officer whose
27 duty it is to make out the land and personal property books,
28 a certified copy of the order of the council, fixing the rate of
29 tax, and such officer shall thereupon extend the tax against
30 the property situated in the city in the land and personal prop-
31 erty books in separate columns in said books.

32 The clerk shall, when the extended copies of the assessor's
33 books are completed and returned to the clerk of the county
34 court, have access to the same for the purpose of making out
35 the tax tickets of the taxes therein extended, and it shall be
36 the duty of the clerk to make out all tax tickets, and when
37 the same have been examined, compared and approved by the
38 financial committee of the council and found to be correct, they
39 shall be turned over to the clerk not later than the tenth day
40 of September following the levy, whose receipt shall be re-
41 turned to the council and entered upon its record, and the clerk
42 shall be charged therewith.

43 The clerk shall give notice that said tax tickets are in his
44 hands for collection, stating the penalty for non-payment there-
45 of, and the time and place where the same may be paid, which
46 notice shall be published for fifteen days in one or more news-
47 papers published in said city.

48 To all persons who shall pay their taxes in full before the
49 first day of December next succeeding said levy, there shall
50 be allowed a discount of two and one-half per centum on the
51 whole amount of the taxes so paid, and not otherwise.

52 The clerk shall immediately proceed to collect from the per-
53 sons by distraint or otherwise the entire amount of the taxes
54 with which they are severally charged therein, and remaining
55 unpaid on the first day of January next succeeding said levy,
56 with interest at the rate of one per centum per month from
57 said first day of January until they are fully paid.

58 All license taxes shall be payable on the first day of July
59 of each year, or at such time as such license may be issued.
60 The said clerk shall receive all taxes, assessments, fines and
61 costs and other money due the city authorized by this act, or
62 by any ordinance of the said city, to be paid to the city, and
63 shall receipt for same; he shall keep an accurate account of all
64 money paid to him for the use of said city, showing under
65 separate accounts the amounts received for account of taxes,
66 sewer purposes, street pavement, licenses, fines and costs and
67 of other matters pertaining to his office, which book shall at
68 all times be open to the inspection of the council or to any com-
69 mittee appointed by it for such purpose; he shall pay over
70 promptly all money which he may receive, within five days
71 after the receipt thereof, into the hands of the treasurer of the
72 said city, showing an itemized statement of the several funds
73 included in said payment, taking the treasurer's receipt there-
74 for; he shall keep his office at the office of the mayor, unless
75 otherwise ordered by the council, and shall keep his office open
76 for the transaction of business during usual business hours,
77 and as may be directed by council; he shall on or before the
78 first day of January and July of each year and oftener if
79 directed by council, present to the council a full, complete and
80 detailed statement of all money with which he is chargeable,
81 or that has been received by him from all sources up to that
82 time, together with a statement of all money paid to the treas-
83 urer, and proper receipts therefor, and he shall at such times
84 return a list of all taxes, levies, assessments and other claims
85 in his hands for collection which he shall not have been able
86 to collect by reason of insolvency, removal, or other cause, to
87 which list he shall append an affidavit that he has used due dili-
88 gence to collect the several items therein mentioned, but has
89 been unable to do so, and if the council should be satisfied as
90 to the correctness of said list, it shall allow him a credit for
91 said claims, but may thereafter take such lawful measures to
92 collect the same as shall be by it prescribed. The said clerk
93 shall receive all taxes on licenses, and receipts to the party
94 paying the same by endorsement upon the permit granted by
95 order of the council and shall charge himself with the amount
96 received from the same, and report to the council at the next
97 regular meeting thereafter, the amount so received, and pay

98 the same over to the treasurer, taking his receipt for the same;
99 he shall, upon the expiration of his term of office, or upon the
100 order of council, turn over to his successor all money, books
101 of account and other property of said city in his possession;
102 he shall receive such salary as may be fixed by the council,
103 which shall not be less than at the rate of six hundred dollars,
104 nor more than one thousand dollars per annum.

105 The clerk of said city, before entering upon the discharge of
106 his duties, shall execute a bond conditioned for the faithful
107 performance of his duties of his office, and for the accounting
108 for and paying over, as required by law, all money which may
109 come into his hands by virtue of his office, with sureties satis-
110 factory to the council, payable to the city of Cameron, in a
111 penalty of not less than five thousand nor more than ten
112 thousand dollars, as the council may prescribe; he shall be
113 custodian of all bonds, notes, certificates and other evidences
114 of indebtedness to the city, together with all valuable papers
115 which may be placed in his possession by the council, except
116 that the bond of the clerk shall be deposited with the mayor;
117 he shall be chargeable with, and it shall be his duty to collect,
118 the city taxes, levies and assessments under such regulations
119 as may be prescribed by law and the ordinances of the city,
120 and in case the same are not paid within one month after they
121 are placed in his hands for collection, he may distrain and
122 sell therefor in like manner and have the same power and au-
123 thority possessed by the officer with the collection of state taxes.

124 If the clerk shall fail to collect, account for and pay over
125 to the treasurer of said city any or all of the money with
126 which he may be chargeable, belonging to the said city, ac-
127 cording to the conditions of his bond and orders of council,
128 it shall be lawful for the council to recover the same by action
129 or by motion, upon ten days' notice, in the corporate name of
130 the city, in the circuit court of Marshall county, against him
131 and his sureties, or any or either of them, or his or their
132 executors or administrators.

Sidewalks.

Sec. 38. After having caused a proper grade to be established
2 at the expense of said city, the council may require sidewalks or
3 footways on the streets, avenues or alleys of the said city to be

4 paved with brick, stone or such other suitable material as the
5 council may determine, under the direction of the street com-
6 missioner, by the owners respectively of the lots, or the fractional
7 part of lots, facing or abutting on such sidewalks or footway, and
8 if the owner of any such sidewalk or footway, or of the real
9 property next adjacent thereto, shall fail or refuse to pave the
10 same in the manner or within the time required by the council,
11 it shall be the duty of the council to cause the same to be done
12 at the expense of the city, and to assess the amount of such expense
13 upon such owner, and the clerk shall notify the owner of said
14 lot the amount of such assessment, and if the said assessment
15 be not paid within thirty days from the date of said notice he
16 shall cause a memorandum showing the name of the owner of
17 said lot, a description of the lot, and the amount of such assess-
18 ment, to be filed in the office of the clerk of the county court of
19 Marshall county, which shall be entered of record in the judgment
20 lien docket in his office, and the same shall constitute a lien on
21 such property, which may be enforced by a suit in the name of
22 the city, in the circuit court of Marshall county, as other liens
23 against real estate are enforced, and upon the payment of said
24 assessment the clerk shall issue to the person entitled thereto a
25 release of said lien; *provided, however,* that reasonable notice
26 shall first be given to said owners that they are required to
27 construct such sidewalks or footways, and in case the owner is a
28 non-resident of the state, the notice aforesaid may be given by
29 publication for four successive weeks in a newspaper published
30 in said city. The provisions of this section shall also be ap-
31 plicable to needed repairs to any of the pavements of the city,
32 and to the substitution of new pavements for any which may have
33 heretofore, or which may be hereafter laid, and completed, and
34 which may be deemed insufficient.

Street Paving.

Sec. 39. The council shall have the authority to provide that
2 any street, avenue or alley or any portion thereof, between the
3 curbstones, shall be macadamized, or paved with brick, cobble-
4 stones, or other suitable material, upon the lowest and best terms
5 obtainable, after advertisement for four weeks in one or more
6 newspapers in the city, for bids and proposals for the work; and
7 two-thirds of the cost of such macadamizing or paving, from

8 curb to curb of such street, avenue, or alley, shall be assessed
9 to the owners of lots, or fractional parts of lots, fronting or
10 abutting on such street, avenue or alley, that is to say: The
11 property owners on each side of said street, avenue, or alley to
12 be assessed one-third of the cost of said improvements, to each
13 property owner or sum proportionate to the distance, or extent
14 in feet by him owned, and one-third of the sum so assessed shall
15 be paid by each property owner to the city within thirty days after
16 the completion of the work, and the remainder in two equal in-
17 stallments in six and twelve months thereafter, with interest
18 thereon at the rate of six per centum per annum, or at such other
19 times as the council may prescribe. The remaining one-third
20 of such expense, as well as the expense of macadamizing or pav-
21 ing at the intersections of streets, avenues and alleys, shall be de-
22 frayed by the city. The council shall cause a notice to be pub-
23 lished for one week in a newspaper of said city, showing the own-
24 ers of the property and the number of feet fronting on said im-
25 provements, as well as the time and the place where the said coun-
26 cil will proceed to fix said assessments as above provided, and
27 giving notice to any person having an interest in said property
28 to appear and show cause, if any they can, why such assessment
29 should not be made; and the council may, in making said assess-
30 ments, consider the petition of any person or corporation relative
31 to the inequality of said assessment, and may equalize and ad-
32 just the same. The assessment to be made to any owner of
33 real estate shall constitute a lien on such estate; and like pro-
34 ceedings may be had and taken to enforce such lien, or to recover
35 from such owner the amount of such assessment, or of any in-
36 stalment thereof, as those provided for in the preceding section
37 providing for the laying of pavements. The council of said city
38 may cause an additional annual levy of fifteen cents on the hun-
39 dred dollars of the ascertained value of all the real and personal
40 property within said city, or subject to taxation, for the purpose
41 only of defraying the expenses of paving the streets, avenues and
42 alleys of said city as herein provided; such levy shall be made at
43 the time the general levy is laid, and shall be collected in like
44 manner, but a separate account shall be kept of the receipts and
45 expenditures of such fund.

Levy.

Sec. 40. The council shall cause to be made up annually, and spread upon its minute book, an accurate estimate of all sums which are or may become lawfully chargeable against the city, and which ought to be paid within one year, and it shall order at a meeting held by it in the month of August of each year, as provided by law, a levy of so much as will, in its judgment, be necessary to pay the same; such levy shall be upon all real and personal property otherwise subject to state and county taxes, and an annual capitation tax of one dollar upon each inhabitant of said city who has attained the age of twenty-one years; *provided*, that such levy shall not exceed the amount prescribed by statute law on every one hundred dollars of the ascertained value of such property, except as herein otherwise provided.

Financial Statement.

Sec. 41. In the month of March in each year the council shall cause to be published in a newspaper in the city, if there be such published therein, at a compensation not to exceed the rate as provided by law for like publications, for one issue, or if no such newspaper be published therein, to publish in pamphlet form not less than one hundred copies of a sworn statement of the financial condition of said corporation; said statement shall contain an itemized account of the receipts and expenditures of the city, showing the source from which all the money was derived, and the name of a person to whom an order was issued, together with the amount of each order, and why such order was issued, arranging the same under distinct heads, and also a specific list of the debts of the city, showing the purpose for which any debt was contracted, the time it becomes due, the rate of interest, up to what time the interest thereon has been paid, the amount of money in the treasury at the end of the preceding administration, and the debts contracted by it; such statement shall be prepared by the city every twelve months and then shall be printed according to the provisions of this section. Either method of making this report shall be sworn to by the clerk, by the mayor and members of the finance committee of the council. One copy of such printed report shall be delivered to the judge of the circuit court, one to the clerk of the county court, and one to the clerk of the circuit court of Marshall county, and one shall be

25 kept as a part of the records of the city, and the remainder shall
26 be held for distribution as called for by the tax-payers of the
27 city.

28 If council fail or refuse to perform the duties herein named
29 every member of such council and the clerk thereof concurring in
30 such failure or refusal shall be guilty of a misdemeanor, and upon
31 conviction thereof shall be fined not less than ten dollars nor more
32 than one hundred dollars.

Bonds—Additional Levy.

Sec. 42. The municipal authorities of said city shall have the
2 power and authority to issue and make sale of the bonds of the said
3 city and to apply the proceeds thereof to the payment for any
4 general improvement therein, or to any debt or obligation of the
5 said city, as provided in chapter one hundred and forty-one of
6 the acts of one thousand eight hundred and seventy-two and three
7 as amended by chapter fifty-one of the acts of one thousand nine
8 hundred and five, or may submit to the voters of said city the
9 question of making an additional levy, and if three-fifths of the
10 votes cast therein be in favor of such increase levy the council may
11 levy the same.

Sec. 43. The city of Cameron shall succeed to all the rights,
2 powers and responsibilities, and be vested with the title to all
3 property of the town of Cameron and the city of Cameron as
4 heretofore existing and all officers of said city acting as such at
5 the time this enactment takes effect shall continue until the first
6 day of February, one thousand nine hundred and twenty-two,
7 or until their successors, the officers herein mentioned, are elected
8 or appointed and qualified, to exercise the powers, perform the
9 duties, and receive the compensation heretofore conferred, pre-
10 scribed and allowed by former charter, by general law or by the
11 ordinance of said city; such ordinances in force at the time
12 referred to shall continue to have full operation and effect until
13 amended, repealed or superseded by the council of the city.

Sec. 44. *Provided, however,* this act shall not become effective
2 unless the same shall first be submitted to the qualified voters
3 residing within the proposed city of Cameron, as shown by
4 the boundary thereof set out in section two of this act, and having
5 received a majority of all the votes cast at the special election
6 hereinafter provided for.

7 This act shall be submitted to said voters at a special election
8 to be held within the proposed city of Cameron on the fourth
9 Tuesday of June in the year one thousand nine hundred and
10 twenty-one. The notice of election to be held on the fourth
11 Tuesday in June shall be published once a week for three suc-
12 cessive weeks preceding said special election in a newspaper pub-
13 lished in the City of Cameron, and if said charter is ratified
14 it shall go into effect thirty days after having been so ratified.

Sec. 45. The ballot to be voted at said special election shall
2 be printed upon plain, substantial white paper and shall be in
3 the following form:

4 *The City of Cameron Charter Election.*

5 Indicate by a cross in one of the squares below how you desire
6 to vote.

7 () For adoption of new charter.

8 () Against adoption of new charter.

Sec. 46. It shall be the duty of the mayor, the council and
2 clerk now in office to perform the duties in relation to such elec-
3 tion, as required by general law of county courts and officers on
4 June first, one thousand nine hundred and twenty-one; and the
5 provisions of chapter three of the code of West Virginia and the
6 amendments thereof in effect on that date shall govern said
7 election.

Sec. 47. The council shall have the power to combine the offices
2 of clerk, chief of police, street commissioner and superintendent
3 of water works into one office to be administered by one person
4 and to be designated as city manager, and who shall be appointed
5 by council to serve during its will and pleasure, and who shall
6 receive a salary not to exceed two thousand dollars per annum
7 and who may be appointed from within or without the city.

Sec. 48. Chapter eighteen of the acts of the legislature of the
2 year one thousand nine hundred and fifteen and chapter twelve
3 of the acts of the legislature of the year one thousand nine hun-
4 dred and nineteen, relating to the charter of the city of Cameron
5 in Marshall county, West Virginia, are hereby repealed.

House Bill No. 331

(House Bill No. 331—Mr. Middelburg.)

AN ACT to amend and re-enact sections seven, thirty-five, fifty-nine and seventy-five of chapter one of the acts of the legislature of one thousand nine hundred and fifteen, bound in a volume of municipal charters of such acts and known as the "Charter of the City of Charleston," as amended and re-enacted by chapter nine of the acts of the legislature of one thousand nine hundred and nineteen, bound in a volume of municipal charters of such acts, and to add sections seven-*a*, seven-*b* and fifty-nine-*a* thereto, all relating to and becoming a part of the charter of the city of Charleston.

Be it enacted by the Legislature of West Virginia:

That sections seven, thirty-five, fifty-nine and seventy-five of chapter one of the acts of the legislature of one thousand nine hundred and fifteen, bound in a volume of municipal charters of such acts and known as the "Charter of the City of Charleston," as amended and re-enacted by chapter nine of the acts of the legislature of one thousand nine hundred and nineteen, bound in a volume of municipal charters of such acts, be amended and re-enacted, and that sections seven-*a*, seven-*b* and fifty-nine-*a* be enacted and added thereto, so as to read as follows:

Section 7. The council of said city shall have, and is hereby
2 granted power to have said city surveyed, to lay out, open, vacate,
3 straighten, broaden, change grade of, grade, re-grade, curb, widen,
4 narrow, repair, pave and re-pave streets, alleys, roads, squares,
5 plots, sidewalks and gutters for public use, and to alter, improve,
6 embellish and ornament and light the same, and to construct
7 and maintain public sewers and laterals, and shall, in all cases,
8 have power and authority to assess upon and collect from the
9 property benefitted thereby, such part of the expense thereof
10 as shall be fixed by ordinance, except as hereinafter provided;
11 to have control of all streets, avenues, roads, alleys and grounds
12 for public use in said city, and to regulate the use thereof and
13 driving thereon, and to have the same kept free from obstruc-
14 tion, pollution or litter on or over them; to have the right to
15 control all bridges within said city, and the traffic thereover;
16 to change the name of any street, avenue or road within said

17 city, and regulate and cause the numbering and re-numbering
18 of houses on any street, avenue or road therein; to regulate
19 the naming of streets, avenues and public places; to regulate
20 and determine the width of streets, sidewalks, roads and alleys;
21 to order and direct the curbing, re-curbing, paving, repaving
22 and repairing of sidewalks and footways for public use in said
23 city to be done and kept clean and in good order by the owners
24 of adjacent property; to enter into a contract with the county
25 of Kanawha, or any internal improvement company for the
26 joint ownership of any bridge by the city and such county or
27 company, upon such terms as may be prescribed in the contract,
28 but such bridges shall be a public highway and the interest of
29 the company, county and city shall be only such proportionate
30 part thereof as it may pay for or that may be named in the
31 contract; to prohibit and punish the abuse of animals; to re-
32 strain and punish vagrants, mendicants, beggars, tramps, pros-
33 titutes, drunken or disorderly persons within the city, and to pro-
34 vide for their arrest and manner of punishment; to prohibit and
35 punish by fine the bringing into the city by steamboats, railroads
36 or other carriers, of paupers, dangerous or objectionable char-
37 acters or persons afflicted with contagious diseases; to control
38 and suppress disorderly houses and houses of prostitu-
38-a tion or ill-fame, houses of assignation, and gaming
39 houses or any part thereof, to punish those engaged
40 in gaming and to suppress all gaming or gambling houses,
41 and all places where gambling or betting is in any
42 way carried on or permitted and to punish all persons in any
43 way connected therewith; to prohibit within the city, or within
44 two miles thereof, slaughter houses, soap or glue factories, and
45 houses and places of like kind, and any other thing or business
46 dangerous, unwholesome, unhealthy, offensive, indecent or dan-
47 gerous to life, health, peace or property; to provide for the
48 entry into and the examination of all dwellings, lots, yards,
49 enclosures, buildings and structures, cars, boats and vehicles of
50 every description, and to ascertain their condition for health,
51 cleanliness or safety; to regulate the building and maintenance
52 of party walls, partition fences or lines, fire walls, fire places,
53 chimneys, boilers, smoke stacks and stove pipes; to provide for
54 and regulate the safe construction, inspection and repairs of all

55 public and private buildings, bridges, basements, culverts, sew-
56 ers, or other buildings or structures of any description; to take
57 down and remove, or make safe and secure, any and all build-
58 ings, walls, structures or super-structures at the expense of the
59 owners thereof, that are or may become dangerous, or to require
60 the owners or their agents to take down and remove them or
61 put them in a safe and sound condition at their own expense;
62 to regulate, restrain or prohibit the erection of wooden or other
63 buildings within the city; to regulate the height, construction
64 and inspection of all new buildings hereafter erected, and the
65 alteration and repair of any buildings already erected or here-
66 after erected in said city, and to require permits to be obtained
67 for such buildings and structures, and plans and specifications
68 thereof to be first submitted to the building inspector; to regu-
69 late the limit within which it shall be lawful to erect any steps,
70 porticoes, bay windows, bow windows, show windows, awnings,
71 signs, columns, piers or other protection or structural orna-
72 ments of any kind for the houses or buildings fronting on any
73 street of said city; to establish fire limits and to provide the
74 kind of buildings and structures that may be erected therein,
75 and to enforce all needful rules and regulations to guard against
76 fire and danger therefrom; to require, regulate and control the
77 construction of fire escapes for any building or other structures
78 in said city, to control the opening and construction of ditches,
79 drains, sewers, cess-pools, and gutters, and to deepen, widen and
80 clear the same of stagnant water or filth, and to prevent obstruc-
81 tion therein, and to fill, close or abolish the same and to determine
82 at whose expense the same shall be done; and to build and main-
83 tain fire station houses, crematories, jails, lockups, and other
84 buildings, police stations and police courts, and to regulate the
85 management thereof; to acquire, establish, lay off, appropriate,
85-a regulate, maintain and control public grounds, streets,
86 alleys, roads, squares and parks, hospitals, market houses,
87 city buildings, libraries and other educational or charitable
88 institutions, either within or without the city limits,
89 and when the council determines that any real estate in
90 or out of the city is necessary to be acquired by said
91 city for any such purpose, or for any public purpose, or is
92 necessary in the exercise of its powers herein granted, the power
93 of eminent domain is hereby conferred upon said city, and it

94 shall have the right to institute condemnation proceedings against.
95 the owner thereof, whether said property be in or out of said
96 city, in the same manner, to the same extent, and upon the same
97 conditions as such power is conferred upon public corporations
98 by chapter forty-two of the code of West Virginia of the edi-
99 tion of one thousand nine hundred and six, as it is now or may
100 be hereafter amended; to purchase, sell, lease or contract for
101 and take care of all buildings and structures and real estate
102 deemed proper for the use of such city; and for the protection
103 of the public to cause the removal of unsafe walls, structures
104 or buildings, and the filling of excavations; to acquire or assist
105 in acquiring land to be donated, dedicated or conveyed to, or
106 otherwise vested in, the state of West Virginia as a site for
107 a state capitol or other public buildings, and to donate, dedi-
108 cate and convey the same to said state or otherwise procure the
109 title to the same to be vested in said state; to prevent injury
110 or annoyance to the business of individuals from anything
111 dangerous, offensive or unwholesome; to abate or cause to be
112 abated all nuisances and to that end and thereabout to summon
113 witnesses and hear testimony; to regulate or prohibit the keep-
114 ing of gunpowder and other combustible or dangerous articles; to
115 regulate, restrain or prohibit the use of firecrackers or other explo-
116 sives or fireworks, and all noises or performances which may be
117 dangerous, indecent or annoying to persons or tend to frighten
118 horses or other animals; to provide and maintain proper places
119 for the burial of the dead, in or out of the city, and to regulate
120 interments therein upon such terms and conditions as to price
121 and otherwise as may be determined; to provide for shade and
122 ornamental trees, shrubbery, grass, flowers and other ornamen-
123 tation, and the protection of the same; to provide for the poor
124 of the city; to make suitable and proper regulations in regard
125 to the use of the streets, public places, sidewalks and alleys
126 by street cars, foot passengers, animals, vehicles, motors, auto-
127 mobiles, traction engines, railroad engines and cars, and to
128 regulate the running and operation of the same so as to prevent
129 obstruction thereon, encroachment thereto, injury, inconvenience
130 or annoyance to the public; to prohibit prize fighting, cock
131 and dog fighting; to license, tax, regulate or prohibit theatres,
132 moving pictures, circuses and exhibition of showmen and shows
133 of any kind, and the exhibition of natural or artificial curiosi-

134 ties, carnivals, menageries and musical exhibitions and perform-
135 ances, and other things or business on which the state does
136 or may exact a license tax; to organize and maintain fire com-
137 panies and departments, and to provide necessary apparatus,
138 engines and implements for the same, and to regulate all matters
139 pertaining to the prevention and extinguishment of fires; to
140 make proper regulations for guarding against danger and dam-
141 age from fires, water or other elements; to regulate and control
142 the kind and manner of plumbing and electric wiring, air ships,
143 balloons, wireless stations, and other appliances for the protec-
144 tion of the health and safety of said city; to levy taxes on
145 persons, property and licenses; to license and tax dogs and
146 other animals, and regulate, restrain and prohibit them and
147 all other animals and fowls running at large; to provide reve-
148 nue for the city and appropriate the same to its expenses; to
149 adopt rules for the transaction of business of its own regulation
150 and government; to promote the general welfare of the city,
151 and to protect the persons and property of citizens therein; to
152 regulate and provide for the weighing of produce and other
153 articles sold in said city and to regulate the transportation
154 thereof and other things, through the streets, alleys and public
155 places; to have the right to grant, refuse or revoke any and all
156 licenses for the carrying on of any business within said city
157 on which the state exacts a license tax; to establish and regulate
158 markets and to prescribe the time for holding the same, and
159 what shall be sold in such markets, and to let stalls or apartments
160 and regulate the same; to acquire and hold property for market
161 purposes; to regulate the placing of signs, bill boards, posters
162 and advertising, on or over the streets, alleys, sidewalks and
163 public grounds of said city; to preserve and protect the peace,
164 order and safety and health of the city and its inhabitants,
165 including the right to regulate the sale and use of cocaine, mor-
166 phine, opium and poisonous or dangerous drugs; to appoint
167 and fix the place of holding city elections; to erect, own, lease,
168 authorize or prohibit the erection of gas works, electric light works
169 or water works, ferry boats, in or near the city, and to operate
170 the same, and to sell the product or services thereof and to do
171 any and all things necessary and incidental to the conduct of
172 such business; to build, hold, purchase, own and operate toll
173 bridges; to provide for the purity of water, milk, meats and

174 provisions offered for sale in said city, and to that end provide
175 for a system of inspecting the same and making and enforcing
176 rules for the regulation of their sale, and to prohibit the sale
177 of any unwholesome or tainted milk, meats, fish, fruit, vege-
178 tables, or the sale of milk, containing water or other things
179 not constituting a part of pure milk; to provide for inspecting
180 dairies and slaughter houses, whether in or outside of the city,
181 where the milk and meat therefrom are offered for sale within
182 said city, and to prohibit the sale of any article deemed un-
183 wholesome, and to condemn the same or destroy or abate it as
184 a nuisance; to provide for the regulation of public processions
185 so as to prevent interference with public traffic, and to promote
186 the good order of the city; to prescribe and enforce ordinances
187 and rules for the purpose of protecting the health, property, lives,
188 decency, morality, cleanliness and good order of the city and its
189 inhabitants, and to protect places of divine worship in and about
190 the premises where held, and to punish violations of all or-
191 dinances, if the offense under and against the same shall also
192 constitute offenses under the laws of the state of West Vir-
193 ginia or the common law; to provide for the employment and
194 safe keeping of persons who may be committed in default of
195 the payment of fines, penalties, or costs under this act, who are
196 otherwise unable to discharge the same, by putting them to
197 work for the benefit of the city upon the streets or other places
198 in or out of the city provided by said city, and to use such
199 means to prevent their escape while at work as the council may
200 deem expedient; and the council may fix a reasonable rate per day
201 as wages to be allowed such person until the fine and costs
202 against him are thereby discharged; to compel the attendance
203 at public meetings of the members of the council; to have and
204 exercise such additional rights, privileges and powers as are
205 granted to municipalities by chapter forty-seven of the code of
206 West Virginia, as amended.

207 For all such purposes, except that of taxation and for pur-
208 poses otherwise limited by this act, the council shall have juris-
209 diction, when necessary, for one mile beyond the corporation
210 within said one mile limit.

211 And the council shall have the right to establish, construct
212 and maintain public markets, landings, ferries, wharves and
213 docks on any ground which does or shall belong to said city,

214 or which it shall acquire, by purchase or otherwise, and to sell,
215 lease, repair, alter or remove any public markets, landings,
216 ferries, wharves, dikes, buildings or docks, which have been or
217 shall be so constructed, and to levy and collect reasonable duty
218 on vessels and other craft coming to or using said landings,
219 ferries, wharves, dikes, docks, and buildings, and to preserve
220 and protect the peace and good order at the same, and regu-
221 late the manner in which they shall be used; and to have the
222 sole right, under state laws and in the same manner as now
223 control county courts, to establish, construct, maintain, regu-
224 late and control all such wharves, docks, ferries and landings
225 within the corporate limits of said city.

226 To carry into effect these enumerated powers and all other
227 powers conferred upon said city expressly or by implication in
228 this and other acts of the legislature, the council of said city
229 shall have the power, in the manner herein prescribed, to adopt
230 and enforce all needful orders, rules and ordinances not contrary
231 to the laws and constitution of this state; and to prescribe.
232 impose and enforce reasonable fines and penalties, including
233 imprisonment in the city lock-up, jail, or station house, and
234 to work prisoners found guilty, as the council may prescribe.
235 and market the products of such labor, and with the consent of
236 the county court of Kanawha county entered of record, shall
237 have the right to use the jail of said county for any purpose
238 necessary to the administration of its affairs.

Sec. 7-a. The council of the city of Charleston shall have full
2 discretion in the matter of granting, refusing and revoking licenses
3 for keeping hotels, eating houses and restaurants, garages, taxi-cab
4 stands, bowling alleys, pool and billiard tables and like tables, and
5 for selling soft drinks, as in the case of other licenses, and shall
6 supervise, regulate and control all places licensed for said purposes.
7 The council shall have power to enact and enforce proper ordi-
8 nances for the purpose of carrying into effect the powers hereby
9 granted.

Sec. 7-b. The council of the city of Charleston is hereby
2 granted power, in addition to the powers heretofore granted it, to
3 regulate by ordinance the operation of motor vehicles and other
4 vehicles in said city, and the speed at which the same may be
5 driven, and to provide for the punishment of violations of such
6 ordinances; and said council is given specific authority to pun-

7 ish the violation of ordinances relating to the speed of such ve-
8 hicles, or the operation thereof, by impounding or taking pos-
9 session of such vehicles and retaining the same for such time as
10 may be prescribed by ordinance, not to exceed thirty days.

Sec. 35. There shall be a mayor, twenty members of council, a
2 police judge and treasurer elected on the third Monday in April,
3 one thousand nine hundred and nineteen, for the term of four
4 years, and their successors shall be elected every four years there-
5 after, and their terms of office shall begin on the first Monday
6 of May after their election. The mayor's salary shall not be
7 less than three thousand nor more than five thousand dollars per
8 annum, and he shall not be eligible to hold said office for more
9 than two terms in succession.

10 The mayor shall appoint the city solicitor, the chief of police
11 and all policemen, humane officer or officers, building inspector,
12 collector, city auditor, engineer, health commissioner, lockup
13 keeper, and the chief of the fire department, and these appoint-
14 ments shall not require any confirmation by the council, but shall
15 be made at the discretion of the mayor, who shall, with like dis-
16 cretion, have the full and complete power of the removal thereof.
17 The mayor shall appoint the manager, by and with the advice
18 and consent of the council, and the mayor shall, at the first
19 meeting of the council on or after the first day of May, one
20 thousand nine hundred and nineteen, send to the council the
21 nomination of some fit and proper person for the office of mana-
22 ger, and the council shall, either at a regular or special meet-
23 ing called for that purpose in the said month of May, pass upon
24 such nomination and either confirm or reject the same, and if
25 such nomination is rejected, then the mayor shall submit to
26 the council a further nomination of some other person or per-
27 sons until the nomination is confirmed by council, for said office
28 of manager, but it shall be the duty of the council to pass upon
29 all nominations without any unreasonable delay, and in any
30 event within two weeks after the submission of the same, and the
31 failure of members of the council to pass thereon within such
32 time shall be cause for the removal from office of such men-
33 bers of the council.

34 The council shall appoint a city clerk. The manager shall ap-
35 point or employ such persons as the ordinances of the city may
36 require or the council may authorize by proper resolution. All

37 such officers shall be appointed for the term of four years and
38 until their successors are appointed and qualified, unless they
39 are removed in the way and manner in this act provided.

40 It shall be the duty of the mayor to attend all meetings of the
41 council and preside over that body.

42 It shall be the duty of the mayor to see that all of the laws
43 and ordinances of the city are enforced and he shall have a gen-
44 eral oversight over the peace, health and good order of the city.

45 The duties of the city solicitor shall be to attend the sessions
46 of council, and to prosecute all suits in behalf of the city and de-
47 fend all suits against the city, to advise the council and all of the
48 departments of the city and in general to look after the interests
49 of the city when it shall need legal services, for which he shall
50 receive a salary of not less than three thousand nor more than
51 five thousand dollars per annum. All fees of every kind collected
52 by any officer or employee, including the police judge when acting
53 as a justice shall be paid to the city treasurer.

Sec. 59. The city of Charleston is hereby authorized to issue
2 and sell bonds of said city, for the purpose of buying and
3 building bridges, electric light plants, water works, gas lines
4 and fields, and other public utilities; and for the purpose of ac-
5 quiring and providing land for public parks, public streets,
6 avenues and alleys, and other public grounds, and acquiring or
7 assisting in acquiring property to be donated, dedicated or con-
8 veyed to, or otherwise vested in, the state of West Virginia, as
9 a site for a state capitol and other public buildings, which do-
10 nation, dedication and conveyance are hereby authorized to be
11 made, and also to provide ground for and erect an incinerator
12 plant or garbage crematory, or other plant or means for the
13 disposal of garbage and refuse; and such bonds shall be sold for
14 not less than par, and payable in a period not to exceed thirty-
15 four years, and shall bear interest, not to exceed six per centum
16 per annum; and in the issuance and sale of said bonds the city
17 shall be governed by all the restrictions of the constitution of
18 this state and the statutes of this state, with respect to the is-
19 suance and sale of other bonds; *provided* that said city shall
20 not, by the sale or issue of bonds for the purposes above men-
21 tioned, cause the aggregate of its indebtedness, of every kind what-
22 ever, to exceed five per centum of the value of the taxable property
23 therein, but may for the above purposes issue bonds to the max-

24 imum limit of said five per cent; nor shall said city make such
25 issue and sale of bonds without, at the same time, providing
26 for the collection of a direct annual tax sufficient to pay an-
27 nually the interest on the same, and a sinking fund to pay the
28 principal within the time for which said bonds shall be issued.

Sec. 59-a. The city of Charleston is hereby authorized to issue
2 and sell bonds of said city, for the purpose of paying the city's part
3 of the cost of grading, curbing, paving, sewerage or otherwise im-
4 proving the avenues, streets, roads and alleys of said city, and for
5 the purpose of providing funds to cover all or any part of the cost
6 of grading, curbing, paving or sewerage that may be assessed
7 against abutting property owners in the manner provided for by
8 law; and said city is hereby given full power to employ the pro-
9 ceeds of such bonds in the purchase of paving certificates or other
10 permanent improvement certificates issued under the provisions of
11 the charter and made liens or assessments against real estate in said
12 city, at not to exceed their par value, and may hold and collect or
13 otherwise dispose of the same; *provided*, that said city shall not by
14 the sale or issuance of bonds for the purposes above mentioned,
15 cause the aggregate of its indebtedness, of every kind whatever, to
16 exceed five per centum of the value of the taxable property therein.
17 The proceeds of any bond issue, authorized under this section,
18 shall be set aside as a separate fund, and all special assessments
19 covering improvements, the cost whereof has been advanced out of
20 this fund, shall be paid into and become a part of said special fund
21 and be used for the same purpose and in the same manner as the
22 proceeds of said original fund.

23 This fund shall continue to be used for the purposes mentioned
24 herein, until such time as the city's part of the cost of grading,
25 curbing, paving, sewerage or otherwise improving the avenues,
26 streets, roads or alleys of the city equals the original proceeds of
27 the bond issues authorized for the purposes mentioned herein. The
28 issuance and sale of bonds, authorized by this section, shall be gov-
29 erned by all of the restrictions of the constitution of this state and
30 statutes of this state with respect to the issuance and sale of other
31 bonds of said city. No issue and sale of bonds, under this section,
32 shall be made, unless at the same time provision is made for the
33 collection of a direct annual tax, sufficient to pay the annual inter-
34 est on the same and create a sinking fund to pay the principal
35 within the time for which said bonds shall be issued. The direct

36 annual tax, provided for in this section, shall be set aside as a sep-
37 arate fund, to be known as an interest and sinking fund. All in-
38 terest collected on special assessments authorized by or referred to
39 in this section shall be placed in and become a part of said special
40 interest and sinking fund, until the principal and interest of said
41 bonds are paid.

42 Whenever, in the opinion of the council, the special improve-
43 ment fund created by this section, or any part thereof, is no longer
44 needed the council may by order direct that said special assess-
45 ments, when collected, be applied to retiring such of the bonds pro-
46 vided for herein, as may be outstanding at that time.

Sec. 75. The council may refund the lawful bonded indebted-
2 ness of said city by issuing bonds of the city, payable within
3 twenty years, bearing no greater rate of interest than four per
4 cent, but the indebtedness of said city shall not thereby be in-
5 creased without the consent of the voters of said city being first
6 had and obtained as provided by law.

7 Such bonds shall not be sold or exchanged for the evidence of
8 said indebtedness of said city for less than par, and there shall
9 be provided a sinking fund that will discharge said bonds as they
10 shall become due. Said bonds shall express on their face that they
11 may be paid at any time after five years at the pleasure of the
12 city. A record shall be kept of all proceedings hereunder; *pro-*
13 *vided*, that nothing herein contained shall be construed to author-
14 ize an increase of the bonded indebtedness of said city beyond
15 the amount authorized by law. Notwithstanding the limitations
16 of this and other laws of the state of West Virginia relating to
17 the issue of bonds and other indebtedness, the city of Charleston
18 is hereby authorized upon the affirmative vote of three-fifths of all
19 the votes cast at an election held for said purpose to issue and sell
20 bonds for the purpose of providing the necessary funds for pur-
21 chasing the ground and erecting a new city building and jail or
22 a separate jail, a new central fire station or fire stations, buying
23 or building bridges, water works, plants and other public utilities,
24 and a city market or either or any of them.

25 The council of said city shall provide for the building of a city
26 jail, and for that purpose, may, if necessary, purchase the neces-
27 sary land and shall lay such levy for the year one thousand nine
28 hundred and twenty-two in addition to all other levies authorized
29 by law, as may be necessary for the purpose of constructing said

30 city jail. The said city council shall also construct within the city
31 of Charleston two public comfort stations, one of which shall be
32 built in that part of Charleston lying east of Elk river, and one
33 of which shall be built in that part of Charleston lying west of
34 Elk river, which stations shall be constructed in a modern and
35 sanitary manner, and the council is authorized, if necessary, to
36 purchase such real estate as may be needed for such purposes, and
37 the city council shall for the year one thousand nine hundred and
38 twenty-one lay a sufficient levy in addition to all other levies
39 authorized by law, to build one of said comfort stations, and for
40 the year one thousand nine hundred and twenty-two, in addition
41 to all other levies authorized by law, lay a sufficient levy to build
42 the other of said public comfort stations, and, in each case, do all
43 things necessary and proper to carry out the general purpose here-
44 by commanded; and in the event said council shall fail, neglect
45 or refuse to lay said levies for the building of said city jail and
46 public comfort stations as herein required, then any voter of said
47 city, may, by mandamus proceedings in any court having jurisdic-
48 tion, compel the council to perform such duty; *provided*, that
49 the council may, if it so desire, submit to the vote of the people
50 by proper ordinance, the question of issuing bonds for constructing
51 said comfort stations, and in the event such bonds shall be author-
52 ized, then such levies for that purpose shall not be made, and,
53 *provided*, that no such sale of bonds shall be made so as to cause
54 the total indebtedness of said city, for all purposes, to exceed in
55 the aggregate five per centum on the value of the taxable property
56 therein, as ascertained by the last assessment for state and county
57 taxes previous to the incurring of such indebtedness.

House Bill No. 141

(Senate Substitute for House Bill No. 141.)

AN ACT to amend and re-enact sections one, three and sixteen of chapter sixteen of the acts of the legislature of one thousand nine hundred and fifteen, regular session, relating to the charter of Charles Town, Jefferson county, West Virginia, and changing the corporate name from "Charles Town" to "Charles City" and adding thereto sections forty-seven, forty-eight and forty-nine.

Be it enacted by the Legislature of West Virginia:

That sections one, three and sixteen of chapter sixteen of the acts of the legislature of one thousand nine hundred and fifteen, regular session, relating to the charter of Charles Town, Jefferson county, West Virginia, be amended and re-enacted and that sections forty-seven, forty-eight and forty-nine be added thereto so as to read as follows:

Section 1. On and after this act takes effect, the incorporated 2 town of Charles Town, Jefferson county, West Virginia, shall be 3 known and designated as the incorporated town of Charles City, 4 Jefferson county, the corporate limits of which shall be as follows, 5 to-wit:

6 Beginning at the corner of William H. Travers and Andrew
7 Hunter, on the north side of Smithfield, Charles Town and Har-
8 per's Ferry turnpike, being 41.1 poles from the east side of town
9 alley (figure 1 in plat of S. Howell Brown's survey of January
10 eighteenth, one thousand eight hundred and seventy-two); running
11 thence with the line of said Travers and Hunter, and also the line
12 of Richard Hessey and the said Hunter, N. 20 degrees, 20 minutes,
13 W. to the Winchester and Potomac railroad, and extending the
14 same course in all 79.3 poles to a stake in James M. Ransom's field;
15 thence parellel to Washington street S. 69 degrees, 40 minutes, W.
16 290 poles to a stake at the prolongation of the line of Mrs. Buskirk
17 and Henry B. Davenport; thence in the direction to said line S. 20
18 degrees, 20 minutes, E. 10.8 poles to a stake at the west side of new
19 road, where the same intersects the "old mill road;" thence with
20 the west side of new road S. 20 degrees, 10 minutes, W. 52. 9 poles
21 crossing the aforesaid turnpike to a stake in the line of said Daven-
22 port (5); and thence with the said line S. 17 degrees, 50 minutes,
23 E. 30.9 poles to the south line of the "old Winchester road;" thence
24 with it N. 69 degrees, 40 minutes, E. 36.05 poles to a point at the
25 prolongation of the aforesaid line of Buskirk and Davenport;
26 thence extending said course S. 20 degrees, 20 minutes, E. 147.12
27 poles to a stake in William Drew's field; thence parallel to Wash-
28 ington street N. 69 degrees, 40 minutes, E. 122 poles to a stake;
29 thence S. 20 degrees, 20 minutes E. 45.45 poles to a stake; thence
30 N. 69 degrees, 40 minutes, E. 115.25 poles to a stake; thence N.
31 20 degrees, 20 minutes, W. 45.45 poles to a stake; thence N. 69
32 degrees, 40 minutes, E. 52.75 poles to a stake in George H. Tate's

33 field (13); thence N. 20 degrees, 20 minutes, W. 150.18 poles to
34 beginning; containing 460 acres.

Sec. 3. The mayor and councilmen as soon as they shall be
2 elected and qualified, as herein provided, shall be a body politic
3 and coroprate by the name of "The corporation of Charles City,"
4 and shall have perpetual succession and a common seal; and by
5 that name may sue and be sued, plead and be impleaded, contract
6 and be contracted with, and may purchase and hold real estate
7 and other property necessary or proper to enable it to discharge
8 its duties, and needful for the good order, government and wel-
9 fare of said corporation.

Officers Appointed.

Sec. 16. There shall be one or more sergeants, a clerk, a
2 treasurer, an assessor, city engineer, town attorney, health officer,
3 and three commissioners of roads, streets and alleys of said town,
4 who shall be appointed by the council thereof, and hold office dur-
5 ing the pleasure of said council. The duties of the clerk, treas-
6 urer and assessor may be discharged by the same person, or other-
7 wise, as the council may from time to time determine; but no
8 member of the council shall hold any said offices. Such officers
9 and members of the council and all persons employed by the coun-
10 cil shall receive such compensation as the council shall determine.

Sec. 47. The said town of Charles City shall succeed to all the
2 rights and liabilities of the town of Charles Town, and it shall be
3 liable for all the debts and obligations of the said town of Charles
4 Town, the same as if such indebtedness were created by the said
5 town of Charles City.

Sec. 48. The ordinances in force in the said town of Charles
2 Town at the time this act goes into effect, so far as they are not
3 inconsistent with this act, shall continue in force as ordinances of
4 the said town of Charles City, until amended or repealed by the
5 council of said Charles City, and the mayor and councilmen now
6 in office in the town of Charles Town, shall continue in office as
7 mayor and councilmen of Charles City, until the end of their
8 present term and until their successors shall have been elected or
9 appointed and qualified unless sooner removed from office in a
10 manner provided by law.

Sec. 49. After this act becomes effective, wherever the name
2 Charles Town is used in the charter of said town as amended and

3 re-enacted by chapter sixteen of the acts of the legislature one
4 thousand nine hundred and fifteen, regular session, it shall be
5 taken and held to mean Charles City.

6 *Provided, however,* that the portion of this act which changes the
7 name of the corporation of Charles Town to the corporation of
8 Charles City, shall not be in effect unless and until the same is rati-
9 fied by a majority vote of the qualified voters of the said corporation
10 of Charles Town, which shall be submitted at the regular municipi-
11 pal election to be held in said town on the fourth Thursday in May,
12 one thousand nine hundred and twenty-one, the ballot for which
13 vote shall be in form as follows:

14 "For changing name of Charles Town to Charles City."

15 "Against changing name of Charles Town to Charles City."

16 And, *provided, further,* that in the event a majority of votes cast
17 at said election shall not be in favor of changing the name to
18 Charles City, that then and thereafter the name of the said town,
19 wherever used in this act, shall be Charles Town instead of Charles
20 City.

House Bill No. 470

(House Bill No. 470—Mr. Stathers.)

AN ACT to amend and re-enact chapter one hundred and twenty-three
of the acts of the legislature, regular session, one thousand nine
hundred and seventeen, relating to the city of Clarksburg, in the
county of Harrison, and prohibiting the pollution of the water
supply thereof.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred and twenty-three (123) of the acts
of the legislature of the state of West Virginia, regular session, A. D.
one thousand nine hundred and seventeen, be amended and re-enacted
so as to read as follows:

Section 1. That the inhabitants of so much of the county of
2 Harrison as lies within the boundaries prescribed by section two
3 of this act shall be and remain, and they are hereby made, a body
4 politic and corporate, by the name and style of the "City of
5 Clarksburg," and as such, and by that name, may contract and be
6 contracted with, sue and be sued, plead and be impleaded, answer

7 and be answered unto, and may purchase, take, receive, hold and
8 use goods and chattels, lands and tenements, and choses in action,
9 or any interest, right or estate therein, either for the proper use
10 of said city or in trust for the benefit of any person, association
11 or corporation therein, and the same may grant, sell, convey and
12 assign, let, pledge, mortgage, charge and encumber, in any case
13 and in any manner in which it would be lawful for a private indi-
14 vidual so to do, except where such power may be limited by law;
15 and may have and use a common seal, and alter and renew the
16 same at pleasure; and generally shall have all the rights, fran-
17 chises, capacities and powers conferred herein, and by the laws
18 of this state upon municipal corporations not inconsistent with
19 the provisions of this act.

City Boundaries.

Sec. 2. The corporate limits and boundaries of said city
2 shall be as follows: Beginning at the junction of Murphy's run
3 with Elk creek and running thence with Elk creek up said stream
4 to the boundary line of the Clarksburg Industrial Company's
5 addition; thence with the northern and eastern lines of said addi-
6 tion to the line of the lands of the Union Land company; thence
7 in a southwestern direction with the line between the lands of the
8 Union Land Company and of said addition to Elk creek; thence
9 down Elk creek to a point opposite the southeastern corner of the
10 town of Broad Oaks; thence crossing Elk creek to said corner of
10-a the town of Broad Oaks and with the corporation line of the town
11 Broad Oaks to the southwestern corner of Alta Vista addition;
12 thence in a straight line to the corner lands of L. D. Jarvis'
13 heirs, John J. Davis' heirs and R. T. Lowndes in the low gap at
14 the head of Second street extended; thence southwesterly with
15 the eastern lines of said John J. Davis' heirs and Maud Duncan
16 land, to the northern bank of Arnold's run; thence down the north
17 bank of said run to the west side of the Clarksburg and Weston
18 turnpike; thence with the western side of same to the southern
19 limits of the Clarksburg water works pump station property;
20 thence with the same by the most direct line to the western bank
21 of the West Fork river; thence with the western bank of the same
22 up the river to a point opposite the southwestern corner of Hart-
23 land; thence with the western line of Hartland to the West Mil-
24 ford turnpike; thence with a straight line northeasterly to the

25 northeast corner of the eastern abutment of the bridge across
26 Limestone creek on the northwestern turnpike; thence with the
27 northern line of said turnpike to the southwestern corner of
28 Glenwood; thence with the western line of same to the northwest-
29 ern corner thereof; thence with the northern line of said
30 Glenwood to the northeastern corner thereof; thence a
31 straight line to the southeastern corner of the southern
32 abutment of the bridge across Limestone creek on the Shinn-
33 ston pike; thence a straight line to the mouth of Limestone creek;
34 thence across the West Fork river by the most direct line to the
35 east bank thereof thence down the river to the northern limits of
36 the Riverside addition; thence with the northern line of same to
37 the northeastern corner thereof; thence a straight line to the
38 northwestern corner of Indiana and North Sixth streets in Glen
39 Elk addition number two; thence with the northern line of said
40 addition to the northeastern corner of Block "A" in said Glen Elk
41 addition number two; thence a straight line to the northeastern
42 corner of Montpelier addition; thence with the eastern line of said
43 addition southerly to the northern line of The Baltimore and
44 Ohio Railway Company's right-of-way; thence easterly with same
45 to a point in the eastern line of the Northwestern turnpike where
46 same intersects with said right-of-way line, this point being at
47 the most western of the two crossings known as the "double
48 crossing;" thence a straight line to the mouth of Murphy's run, the
49 beginning.

Wards.

Sec. 3. The territory of said city shall consist of nine wards,
2 which shall be known and designated respectively as first, second,
3 third, fourth, fifth, sixth, seventh, eighth, and ninth wards; and said
4 wards are respectively located, bounded and described as follows:
5 *First Ward.* Beginning at Main street, near Water street, at
6 the bridge over Elk creek on said Main street, and following
7 Elk creek in a northern direction to a sharp bend at the foot of
8 Pinnickinnick Hill; and thence in a straight line in a northeast-
9 ern direction following the boundary line between Glen Elk addi-
10 tion No. 2 and Montpelier Addition to the city of Clarksburg to
11 the northern boundary line of the city; thence in an eastern di-
12 rection following the corporate lines of Elk creek; thence down
13 Elk creek to the Main street bridge leading to Goff plaza; thence
14 with Main street to the place of beginning.

15 *Second Ward.* Beginning at the boundary line of the city at
16 Elk creek at the mouth of Murphy's run, and following the city
17 boundary lines in an eastern, southern and western direction to
18 the southern end of Bassel street; thence with Bassel street to
19 Harrison street; thence with Harrison street to Bridge street;
20 thence with Bridge street to Elk creek; and thence up Elk
21 with Main street to the place of beginning.

22 *Third Ward.* Beginning at the corner of Main and Second
23 streets, and running with Second street and an extension thereof
24 to the southern boundary of the city; thence in an eastern direc-
25 tion with the boundary line, to Bassel street; thence with Bassel
26 street to Harrison street; thence with Harrison street to Bridge
27 street; thence with Bridge street to Elk creek; thence up Elk
28 creek to Main street at the bridge leading to Goff plaza; thence in
29 a western direction with Main street, to the place of beginning.

30 *Fourth Ward.* Beginning at Elk creek at the Main street bridge,
31 near Water street, and following Elk creek in a northern direc-
32 tion to a sharp bend in the stream at the foot of Pinnickinnick
33 hill; thence in a northern direction in a straight line following the
34 boundary line between Glen Elk addition No. 2 and Montpelier
35 addition of the city of Clarksburg to the northern boundary line
36 of the city; thence in a western direction with the boundary
37 line to the crest of the hill where the crematory plant is now
38 located; thence following the ridge in a western direction and
39 down the center of the point to what is known as the Barnes
40 railroad crossing; thence in an eastern direction with the right-
41 of-way of the Baltimore and Ohio Railroad Company to the
42 northern end of Sixth street in Glen Elk addition No. 1; thence
43 in a southern direction with Sixth street crossing Elk creek
44 to Main street; thence in an eastern direction with Main street
45 to Elk creek, the place of beginning.

46 *Fifth Ward.* Beginning at the junction of Main and Sixth
47 streets and running westward with Main street to the old fair-
48 ground bridge at the mouth of Elk creek; thence up Elk creek
49 to the railroad bridge and right-of-way of the Baltimore and Ohio
50 Railroad Company; thence with the Baltimore and Ohio Railroad
51 Company's right-of-way and lines passing Barnes crossing to
52 the northern end of Sixth street in Glen Elk addition No. 1;
53 thence with Sixth street to Main street, the place of beginning.

54 *Sixth Ward.* Beginning at the junction of Main and Second

55 streets, and running in a southern direction with Second street
56 and an extension thereof to the southern boundary line of the
57 city; thence with the boundary lines in a southern and western
58 direction to the West Fork river; thence down the West Fork
59 river to the bridge leading to the old fair-grounds at Main
60 street; thence with Main street to Second street, the place of
61 beginning.

62 *Seventh Ward.* Beginning at the bridge across the West Fork
63 river leading to the old fair grounds, and running up the West
64 Fork river to the southern boundary line of the city; thence
65 with the southern and western boundary lines of the city to the
66 top of the hill or point between Hartland addition and what
67 was formerly the town of Adamston; thence in an eastern direc-
68 tion with the center of the ridge and point in a straight line
69 to the West Fork river; thence up the West Fork river to
70 the bridge leading to the old fair-grounds, the place of begin-
71 ning.

72 *Eighth Ward.* Beginning at the western boundary line of the
73 city at the top of the hill between what was formerly the town
74 of Adamston and Hartland addition, and running with the center
75 of the ridge in an eastern direction in a straight line to the West
76 Fork river; thence up the West Fork river to the mouth of
77 Elk creek; thence up Elk creek to the right-of-way of the West
78 Virginia and Pittsburgh division of the Baltimore and Ohio
79 Railroad company; thence with the right-of-way of said rail-
80 road company to the main line of the Parkersburg branch of the
81 railroad of said company; thence in a western direction with the
82 lines of said railroad to the West Fork river; thence down the
83 West Fork river to the northern boundary line of the city;
84 thence with the boundary lines of the city in a southern, western
85 and southern direction to the top of the hill between what was
86 formerly the town of Adamston and Hartland addition, the place
87 of beginning.

88 *Ninth Ward.* Beginning at the bridge over the West Fork
89 river on the main line of the Parkersburg branch of the
90 Baltimore and Ohio Railroad Company; and running with the
91 same to Barnes crossing at Sycamore street; thence in a north-
92 eastern direction with the point and ridge north of Glen Elk
93 addition No. 2 to the city boundary line near the crematory;
94 thence in a western direction with the city boundary lines to the

95 West Fork river; thence up the West Fork river to the Balti-
96 more and Ohio Railroad Company's bridge, the place of be-
97 ginning.

Sec. 4. At any time after the expiration of two years from
2 the time this act takes effect and from time to time, the city
3 council may by ordinance modify and change the boundaries and
4 increase or decrease the number of wards.

Existing Indebtedness.

Sec. 5. The entire indebtedness, bonded and otherwise, and
2 all other liabilities, liquidated or unliquidated, now existing and
3 enforceable against the late town of Adamston, the late town of
4 Stealey Heights, the late town of North View, the late town of
5 Broad Oaks, and the city of Clarksburg, as it existed prior to the
6 nineteenth day of February, one thousand nine hundred and sev-
7 enteen, shall be paid and discharged by the city of Clarksburg
8 herein created or continued, and the territory included within the
9 city of Clarksburg as herein created shall constitute a single assess-
10 ment district for the purpose, and the assessment districts created
11 by the special act of the legislature, chapter one hundred and twen-
12 ty-three, session one thousand nine hundred and seventeen, are
13 hereby abolished: *Provided, however,* that any debt created or
14 bonds issued by either of said municipalities for carrying on any
15 work of public improvement in anticipation of the collection of
16 special assessments for properties specially benefited by such work
17 shall be paid and discharged by the special assessments made
18 against specially benefitted properties in so far as the same shall
19 suffice for the payment thereof; and *provided, further,* that this
20 section in so far as it applies to the indebtedness of the said
21 municipalities above mentioned, which was created for the con-
22 struction and improvement of water works plants therein, shall
23 be subject to the provisions herein contained relating to the
24 Clarksburg water board.

Existing Ordinances.

Sec. 6. All by-laws, ordinances, franchises and resolutions
2 lawfully passed and adopted and in force and effect in the city
3 of Clarksburg immediately before this act becomes effective and
4 not inconsistent with this act shall remain in full force until al-
5 tered or repealed by the council under the provisions hereof, and

6 no right or liability either in favor of or against any of the five
7 former municipal corporations now embraced within the cor-
8 porate limits of Clarksburg nor any pending suit or prosecution
9 for or against either of said municipal corporations shall be af-
10 fected by this act unless otherwise specifically provided for herein.

Elective Officers.

Sec. 7. The elective officers of the city of Clarksburg shall con-
2 sist of a council composed of nine members, one to be elected
3 from, and resident in, each ward of the city; and of a water
4 board composed of three members. The members of the city
5 council shall hold their respective offices for the term of two
6 years and the members of the water board shall hold their re-
7 spective offices for the term of six years.

8 An election for officers under this act shall be held on the third
9 Tuesday in April in the year one thousand nine hundred and twen-
10 ty-one, and biennially thereafter, on the same day of the same
11 month. The terms of the councilmen shall begin on the first day
12 of May next following the election, and the terms of the present
13 members of the city council shall expire on the thirtieth day of
14 April, one thousand nine hundred and twenty-one.

15 At the election to be held on the third Tuesday in April in the
16 year one thousand nine hundred and twenty-one, there shall be
17 elected a member of the water board to serve for a term of six years
18 beginning on the first day of May next following. The other
19 members of the water works board in office in the city of Clarks-
20 burg at the time this act becomes effective shall serve out the re-
21 mainder of their respective terms, and at each regular biennial
22 election after one thousand nine hundred and twenty-one, there
23 shall be elected one member of the water board to serve for a term
24 of six years beginning on the first day of May next following the
25 election.

26 Any vacancy in the office of councilman shall be filled by ap-
27 pointment by the remaining members of the city council, for the
28 unexpired term, and any vacancy on the water board shall be filled
29 by appointment by the remaining members of the water board,
30 for the unexpired term.

31 All appointive employees of the city, or their successors in
32 employment, shall hold their respective employments until their
33 respective successors shall have been chosen.

Sec. 8. The candidates to be voted for at all general municipal elections shall be nominated by primary elections.

Until the members of any political party in the city of Clarksburg shall choose or select a party executive committee, the members of the county executive committee of the party residing in the city of Clarksburg shall constitute a city executive committee for the party, and the county chairman of the political party county executive committee shall be the chairman of the political party city executive committee until another chairman is chosen.

The candidates to be voted for at the municipal election to be held on the third Tuesday in April, one thousand nine hundred and twenty-one, shall be nominated at a primary election to be held on the second Tuesday in April, one thousand nine hundred and twenty-one; and the candidates to be voted for at any regular election thereafter to be held shall be nominated at a primary election to be held on the first Tuesday in April preceding the day fixed for the regular election. At the election to be held on the third Tuesday in April, one thousand nine hundred and twenty-one, no elector, who is otherwise qualified to vote at such election, shall be denied the privilege of voting for the reason that he may not have been registered or that his name may not appear upon the registration list of voters. Such elections shall be held, conducted, and the result thereof ascertained and declared in all respects as is or shall be provided by state laws for holding and conducting primary elections throughout the state for nominating candidates for office or electing delegates to party conventions, and the duties by state laws imposed upon the county court and the clerk thereof in respect to general primary elections shall be discharged by the city council and the city clerk, respectively.

Regular municipal elections shall be held and conducted in all respects as provided by law for conducting general elections in the state of West Virginia; except that the names of candidates nominated for office need not be published. The city council shall perform all of the duties in regard to the election which are imposed upon a county court in conducting a general election in the state, and the city clerk shall perform all of the duties which are imposed upon the clerk of the county court. The city council in selecting officers to conduct the election and in choosing ballot commissioners shall be bound by all of the laws obligating a county court to select commissioners and clerks which may be

41 designated by a party executive committee or by the chairman
42 thereof. The ballots shall be received, cast, counted, tabulated,
43 and returns made and canvassed in all respects as provided by law
44 for conducting general elections in the state of West Virginia, ex-
45 cept that the duties devolving upon the county court and the clerk
46 thereof under the general laws for conducting elections in the state
47 shall be discharged by the city council and the city clerk.

48 The places for holding the elections shall be selected and pro-
49 vided by the city council, and the officers selected to conduct the
50 same shall receive the same compensation to be paid by the city
51 which is paid to like officials selected to conduct general elections
52 in the state.

53 A receiving board and a returning board of officials to conduct
54 the election may be appointed at any or all voting precincts when
55 in the judgment of the city council a double election board is nec-
56 essary to facilitate the holding of the election and counting of the
57 ballots. The city council may establish one or more voting pre-
58 cincts in any ward and may fix the boundaries of such precincts.

59 Each resident of the city of Clarksburg who is a citizen of the
60 United States and who has resided in the state of West Virginia
61 for at least one year and in the city of Clarksburg for at least six
62 months, and who is a *bona fide* resident of the ward and election
63 precinct in which he offers to vote, and who is not otherwise dis-
64 qualified by law, shall be entitled to vote.

65 The first city council elected under the provisions of this act
66 shall provide by ordinance for the registration of all persons
67 entitled to vote at each subsequent municipal election and primary
68 election, and the city council shall appoint the registrars, specify
69 the time for making the registration, and cause all persons entitled
70 to vote in the city to be registered. The laws in force in the state
71 of West Virginia for registering persons who are entitled to vote
72 at a general election held in the state shall in so far as applicable
73 govern the registration of persons entitled to vote at municipal
74 elections, and the duties imposed by the general laws of the state
75 upon county courts and clerks thereof shall be discharged re-
76 spectively by the city council and the city clerk.

77 All commissioners and clerks selected to conduct elections, and
78 all registrars, and all challengers, shall take the oath prescribed by
79 law before entering upon the discharge of their respective duties.

Corporate Powers.

Sec. 9. All corporate powers of the city shall be vested in and
2 exercised by the council except as hereinafter conferred upon the
3 water board. Each councilman shall have a right to vote on all
4 questions coming before the council. Five or more members of the
5 council shall constitute a quorum, and the affirmative vote of at
6 least a majority of the members of the council shall be
7 necessary to adopt any motion, resolution or ordinance,
8 or pass any measure.

9 The city manager, hereinafter provided for, shall preside at all
10 meetings of the council when present, and in his absence, the coun-
11 cil shall select a presiding officer. The city manager or other
12 presiding officer shall have no power to veto any measure, resolu-
13 tion or ordinance, and shall be entitled to vote upon the passage
14 of the same only in the case of a tie. But every resolution, ordi-
15 nance or franchise passed by the council must be signed by the city
16 manager and the city clerk or recorder and must be published and
17 recorded before the same shall be effective, unless otherwise pro-
18 vided in this act.

Powers of the Council.

Sec. 10. The council of said city shall have and are hereby
2 granted power to have said city surveyed; to open, vacate, broaden,
3 change grade of, grade and pave streets, sidewalks and gutters
4 for public use, and to alter, improve, embellish and ornament and
5 light the same, and to construct and maintain public sewers and
6 laterals, and shall in all cases except as to lighting have power
7 and authority to assess upon and collect from the property bene-
8 fitted thereby all, or such part of the expense thereof, as shall be
9 fixed by ordinance, except as hereinafter provided; to have con-
10 trol of all streets, avenues, roads, alleys and grounds for public
11 use in said city, and to regulate the use thereof and driving
12 thereon, and to have the same kept in good order and free from
13 obstruction, pollution or litter on or over them; to have the right
14 to control all bridges within said city and the traffic passing there-
15 over; to change the name of any street, avenue or road within said
16 city, and to cause the re-numbering of houses on any street, ave-
17 nue or road therein; to regulate and determine the width of
18 streets, sidewalks, roads and alleys; to order and direct the curb-
19 ing and paving of sidewalks and footways for public use in said

20 city to be done and kept clean and in good order by the owners of
21 adjacent property; to enter into a contract with any internal im-
22 provement company for the joint ownership of any bridge by the
23 city and such company, upon such terms as may be prescribed in
24 the contract, but such bridge shall be a public highway; to pro-
25 hibit and punish the abuse of animals; to restrain and punish
26 vagrants, mendicants, beggars, tramps, prostitutes, drunken
27 or disorderly persons within the city, and to provide for their
28 arrest and manner of punishment; to prohibit by ordinance the
29 bringing into the city of any person or animal afflicted with con-
30 tagious or infectious disease, and to punish any violator of said
31 ordinance who knows or has reason to believe such person
32 or animal to be so afflicted; to suppress disorderly houses
33 of prostitution or ill-fame, houses of assignation, and gaming
34 houses or any part thereof, and to punish gaming; to prohibit
35 within said city or within three miles thereof slaughter houses,
36 soap or glue factories and houses of like kind; to control the con-
37 struction and repair of all houses, basements, walls, bridges, cul-
38 verts and sewers, and to prescribe and enforce all reasonable reg-
39 ulations affecting the construction of the same, and to require
40 permits to be obtained for such buildings and structures, and
41 plans and specifications thereof to be first submitted to the
42 city council; to control the opening and construction of ditches,
43 drains, sewers, cess-pools and gutters and to deepen, widen
44 and clear the same of stagnant water or filth, and to prevent
45 obstructions therein, and to determine at whose expense the
46 same shall be done: and to build and maintain fire station
47 houses, police stations and police courts, and to regulate the
48 management thereof; to acquire, lay off, appropriate and control
49 public grounds, squares and parks, either within or without the
50 city limits as herein defined; to purchase, sell, lease or contract
51 for and take care of all public buildings, and structures and real
52 estate, including libraries and hospitals, deemed proper for use
53 of such city; and, for the protection of the public, to cause the re-
54 moval of unsafe walls or buildings, and the filling of excavations;
55 to prevent injury or annoyance to the business of individuals
56 from anything dangerous, offensive or unwholesome: to define,
57 prohibit, abate, suppress and prevent all things detrimental to
58 the health, morals, comfort, safety, convenience and welfare of
59 the inhabitants of the city, and all nuisances and causes thereof,

60 and to that end and thereabout to summon witnesses and hear
61 testimony; to declare and enforce quarantine against the intro-
62 duction of any contagious or infectious disease prevailing in any
63 other state, county or place, and of any and all persons and things
64 likely to spread such contagion or infection; to regulate the keep-
65 ing of gun powder and other combustible or dangerous articles;
66 to regulate, restrain or prohibit the use of firecrackers, or other
67 explosives, or fireworks, and all noises or performances which
68 may be dangerous, annoying to persons or tend to frighten
69 horses or other animals; to provide and maintain proper places
70 for the burial of the dead and to regulate interments therein
71 upon such terms and conditions as to price and otherwise as may
72 be determined; to provide for shade and ornamental trees and the
73 protection of the same; to provide for the making of division
74 fences; to make proper regulation for guarding against danger
75 or damage from fires; to provide for the poor of the city, and to
76 that end may contract with the proper authorities of Harrison
77 county to keep and maintain the poor, or any number thereof,
78 upon terms to be agreed upon; to make suitable and proper reg-
79 ulations in regard to the use of the streets and alleys for street
80 cars, railroad engines and cars, and to regulate the running and
81 operation of the same so as to prevent injury, inconvenience or
82 annoyance to the public; to prohibit prize fighting, cock and dog
83 fighting; to license, tax, regulate or prohibit theatres, circuses,
84 the exhibition of showmen and shows of any kind and the exhi-
85 bition of natural or artificial curiosities, caravans, menageries,
86 pictures, motion pictures and musical exhibitions and per-
87 formances; to regulate the construction, height and material
88 used in all buildings, and the maintenance and occupancy
89 thereof; to regulate and control the use for whatever purpose. of
90 the streets and other public places; to create, establish, abolish and
91 organize employments and fix the compensation of all employees.
92 (except the employees of the water board); to organize and main-
93 tain fire companies and to provide necessary apparatus, engines
94 and implements for the same; to regulate and control the kind and
95 manner of plumbing and electric wiring for the protection of the
96 health and safety of said city; to levy tax on persons, property
97 and licenses; to license and tax dogs and other animals, and
98 regulate, restrain and prohibit them and all other animals and
99 fowls from running at large; to assess, levy and collect taxes for

100 general and special purposes upon all the subjects or objects
101 which the city may lawfully tax; to levy and collect assessments
102 for local improvements; to borrow money on the faith and credit
103 of the city by the issue and sale of bonds in the manner pre-
104 scribed by law; to appropriate the money of the city for all lawful
105 purposes; to create, provide for, regulate and maintain all things
106 in the nature of public works and improvements; to adopt rules
107 for the transaction of business and for its own regulation and gov-
108 ernment; to promote the general welfare of the city and to protect
109 the persons and property of citizens therein; to regulate and pro-
110 vide for the weighing of produce and other articles sold in said
111 city and to regulate the transportation thereof, and other things
112 through the streets, to have the sole and exclusive right to grant,
112-a refuse or revoke any and all licenses for the carrying on of any
113 business within said city on which the state exacts a license tax;
114 to establish and regulate markets and to prescribe the time for
115 holding the same, and what shall be sold in such market, and to
116 acquire and hold property for market purposes; to regulate or
117 prohibit the placing of signs, bill-boards, posters and advertise-
118 ments, in, on or over the streets, alleys, sidewalks and public
119 grounds of said city; to preserve and protect the peace, order and
120 safety and health of the city and its inhabitants, including the
121 right to regulate the sale and use of cocaine, morphine, opium
122 and poisonous drugs; to make, enforce and provide local police,
123 sanitary and other regulations, and fully exercise all lawful
124 police powers; to appoint and fix the places of holding city elec-
125 tions; to erect, own, lease, authorize or prohibit the erection of
126 gas works, telephone plant or electric light works in or near the
127 city, and to operate the same and sell the products or services
128 thereof, and to do any and all things necessary and incidental to
129 the conduct of such business; to provide for the purity of milk,
130 meats and provisions offered for sale in the said city, and to that
131 end provide for a system of inspecting the same and making and
132 enforcing rules for the regulation of their sale, and to prohibit
133 the sale of any unwholesome or tainted milk, meats, fish, fruit,
134 vegetables, or the sale of milk containing water or other things
135 not constituting a part of pure milk; to provide for inspecting
136 dairies and slaughter houses, whether in or outside of the city,
137 where the milk and meat therefrom are offered for sale within
138 said city; to prescribe and enforce ordinances and rules for the

139 purpose of protecting the health, property, lives, decency, mor-
140 ality and good order of the city and its inhabitants, and to pro-
141 tect places of divine worship in and about the premises where
142 held, and to punish violations of such ordinances even if the of-
143 fense under and against the same shall constitute offenses under
144 the law of the state of West Virginia or the common law; to pro-
145 vide for the employment and safe keeping of persons who may
146 be committed in default of the payment of fines, penalties or
147 costs under this act, who are otherwise unable or fail to discharge
148 the same, by putting them to work for the benefit of the city
149 upon the streets or other places provided by said city, and to use
150 such means to prevent their escape while at work as the council
151 may deem expedient; and the council may fix a reasonable rate
152 per day as wages to be allowed such person until the fine and
153 costs against him are thereby discharged; to compel the attend-
154 ance at public meetings of the members of the council; to prevent
155 any person, association or corporation from polluting in any
156 manner any pond, lake, basin, reservoir, stream, spring, creek, or
157 other body of water from which the city shall take water to be
158 used for domestic purposes by the inhabitants thereof, or from
159 casting into any such body of water, or on the bank thereof or in
160 such proximity thereto that the same may enter therein, any
161 filthy, unwholesome, or obnoxious substance, object, or liquid, or
162 anything whatsoever, injurious to the health of the people of the
163 city; to exercise all other powers that now are or hereafter may
164 be granted to municipalities by the constitution or the laws of the
165 state of West Virginia; and all such powers, whether expressed
166 or implied, shall be exercised and enforced in the manner pre-
167 scribed by this charter, or when not prescribed herein, in such
168 manner as shall be provided by the ordinances or resolutions of
169 the council.

170 The enumeration of particular powers of this charter shall
171 not be held or deemed to be exclusive, but in addition to the
172 powers enumerated herein, impliedly thereby, or appropriate to
173 the exercise thereof, the council shall have and exercise all other
174 powers, which, under the constitution and laws of the state of
175 West Virginia it would be competent for this charter specifically
176 to enumerate.

177 The council shall provide for the enforcement of all ordi-
178 nances by reasonable and proper penalties, consisting of fines or

179 imprisonment, or fines and imprisonment, with suitable rules
180 and regulations for the enforcement of such penalties. For all
181 such purposes the jurisdiction of the city shall, when necessary,
182 extend for one mile beyond the corporate limits of said city, ex-
183 cepting any other municipal corporation, or part thereof, within
184 said one mile limit. In order to prevent the pollution of the
185 waters from which the people of the city take water for domestic
186 uses, the jurisdiction of the city shall be co-extensive with the
187 location and extent of the water from which supply is taken,
188 except that in no event shall such jurisdiction of the city of
189 Clarksburg exist within any other incorporated city or town:
190 *Provided, however,* that in no event shall imprisonment for a
191 longer period than sixty days or a greater fine than one hundred
192 dollars, or both, be imposed for any one offense.

Appointive Offices.

Sec. 11. For the administration of the affairs of the city and of
2 the powers conferred upon the city council, there are created the
3 following municipal offices:

4 City manager, city clerk or recorder, police court judge,
5 city collector and treasurer, city attorney, city engineer, who
6 shall be *ex-officio* street supervisor, city physician, chief of police,
7 and chief of the fire department.

8 The city council shall have power to create additional adminis-
9 trative offices and to abolish any of the offices by it
10 created.

11 The city council shall at its first meeting in the month of May
12 following a municipal election, or as soon thereafter as practicable,
13 appoint by a majority vote, a city manager, and shall by a like
14 vote, at any regular or special meeting of the council, fill any
15 vacancy in said office.

16 The city manager shall, by and with the advice and consent
17 of the city council, appoint a city clerk or recorder,
18 a police court judge, a city collector and treasurer, a
19 city attorney, a city engineer, who shall be *ex-officio* street super-
20 visor, a city physician, a chief of police and a chief of the fire
21 department, and officers to fill any other administrative offices
22 which the council shall create. Any vacancy in any of said offices
23 shall be filled by the city manager with the consent of the council.

24 The assent of the council in all cases shall be entered of record
25 in the book containing the proceedings of the council.

26 The city manager shall hold office during the pleasure of the
27 council, and may at any time be removed from office by the affirma-
28 tive vote of two-thirds of all of the members of the council.

29 The administrative officers named in this section and any ad-
30 ministrative officers appointed to fill any administrative offices
31 which council may hereafter create shall hold office at the will and
32 pleasure of the city manager and may be removed from office at
33 any time by the city manager: *Provided, however,* that any such
34 officer who shall be removed from office by the city manager may
35 be reinstated by the affirmative vote of two-thirds of all the mem-
36 bers of the city council.

37 The council shall by ordinance or resolution prescribe, fix and
38 limit the number of city policemen to be employed by the city,
39 and the number of employees in the fire department.

Qualifications.

Sec. 12. No person shall be elected or remain a member of
2 the city council who does not reside in the ward from which
3 he is elected and who is not a freeholder of record in the city of
4 Clarksburg.

5 No person shall be appointed police court judge,
6 who is not a resident of the city of Clarksburg
7 and a member of the Harrison county bar in good
8 standing.

9 No person shall fill any other elective or appointive office except
10 that of city manager who is not a resident of the city of Clarksburg
11 and entitled to vote for members of the city council.

12 Any officer of the city who shall become or be directly or in-
13 directly interested in any contract or in the profits to be derived
14 therefrom with the municipality shall forthwith forfeit his office;
15 and in addition thereto, any such contract shall be void and un-
16 enforceable against the city; and the acceptance by any officer of
17 any interest in such contract or of any gift or gratuity from any
18 person, firm or corporation dealing with the city which might
19 influence the officer in the discharge of any duty shall disqualify
20 the person forever from holding any office or employment in the
21 government of the city of Clarksburg; and in addition, such per-

22 son shall be subject to criminal prosecution under any ordi-
23 nances of the city or laws of the state of West Virginia.

Compensation.

Sec. 13. Each member of the city council shall receive a fee
2 of five dollars for each regular or special meeting which he shall
3 attend: *Provided, however,* that he shall not receive total com-
4 pensation of more than one hundred and fifty dollars for any
5 year.

6 The city manager and other administrative officers holding the
7 offices created by section 11 of this act, or which shall
8 hereafter be created by the city council, the members of the
9 city police, the employees of the fire department, and laborers
10 employed by the city, except those employed by the water board,
11 shall receive such salary, compensation and wages as the city
12 council shall from time to time by ordinance or resolution fix
13 and prescribe.

City Manager.

Sec. 14. The city manager shall occupy an office for the
2 transaction of the public business in the building or buildings
3 occupied by the city government, which office shall be kept open
4 on all secular days except legal holidays for the transaction of
5 the public business. He shall devote all of his time to the
6 discharge of his official duties, and while holding the office
7 shall not engage in any other business or employment or hold
8 any other office. In addition to all other powers which may be
9 conferred upon the city manager by the city council or by the laws
10 of the state of West Virginia, he shall exercise the following
11 powers:

12 (a) Supervise, control and direct the affairs and business of
13 all of the administrative offices created in section eleven
14 of this act, or which shall hereafter be created by the coun-
15 cil under the authority therein contained, except the police de-
16 partment.

17 (b) Appoint and remove in the manner herein provided all
18 administrative officers and employ and discharge at will all other
19 employees of the city, except employees in the police department
20 and in the water department.

21 (c) Enforce in favor of the inhabitants of the city all terms

22 and conditions in their favor contained in any public utility fran-
23 chise and require the faithful discharge of obligations of all pub-
24 lic utilities.

25 (d) Attend and preside at all meetings of the coun-
26 cil with the right to take part in the discussion of all
27 measures.

28 (e) Recommend to the council for adoption such measures
29 and resolutions as he may deem expedient.

30 (f) Act as budget commissioner and keep the city council fully
31 advised as to the financial condition and needs of the city.

32 (g) Determine and decide on the plan and program for pav-
33 ing, sewerage and otherwise improving the different streets and
34 alleys in the city and fix and determine the order of time in which
35 such streets and alleys shall be paved, sewerage and otherwise im-
36 proved.

37 (h) Determine and decide upon the kind and character of
38 pavements, sidewalks, curbs, sewers and other improvements which
39 shall be constructed and made upon and in any of the streets and
40 alleys of the city.

41 (i) Employ competent experts to advise with him in plan-
42 ning the improvements of city streets and alleys, in specifying
43 the kind and character of pavements, sidewalks, curbs and sewers,
44 which shall be laid and constructed, and to supervise the perform-
45 ance of the work in paving, sewerage, and improving any street
46 or streets, and alley or alleys; and by contract to specify and fix
47 the compensation which any expert so employed by the city man-
48 ager shall receive for his services, which contract shall not be-
49 come binding or effective until approved by the city council and
50 the fact of such approval entered of record.

51 (j) Authenticate all ordinances and resolutions passed by the
52 council and sign the minutes of all meetings of the council. Im-
53 mediately upon the meeting of the council the minutes of the pre-
54 ceding meeting shall be read and corrected if they contain any er-
55 rors, and they shall be signed by the city manager and city clerk
56 before the council proceeds to the transaction of any business.

57 (k) Act as purchasing agent and purchase all supplies and
58 material for all departments of the city government except the
59 water department; and make sale of all property of the city not
60 needed or suitable for the public use in such manner as the council
61 may direct: *Provided, however, he shall not make any contract*

62 or purchase involving an expenditure in excess of five hundred dol-
63 lars without first obtaining the assent of the council so to do. All
64 supplies to be used by the city and all material purchased by the
65 city for construction of any public improvement shall be purchas-
66 ed on competitive bids. All proposals for such shall be upon pre-
67 cise specifications, and notice of the requirements of the city shall
68 be given to dealers in supplies and materials of the kind required
69 who by reason of location are best able to furnish the same at the
69-a lowest price. All offers to sell supplies and materials to the city
70 shall be attached to the accepted offer and filed and preserved in
71 the office of the city clerk. All purchases shall be audited by the
72 city council and only on approval of the council shall payment be
73 made: *Provided, however,* that limited quantities of supplies and
74 materials may be purchased in cases of emergency without the
75 delay necessary to secure competitive bids or offers to supply the
76 same.

77 (l) Make and execute on behalf of the city all writings, con-
78 tracts, deeds, and agreements, the making of which shall be au-
79 thorized by the council, or by any ordinance, resolution or stat-
80 ute, except contracts pertaining to the water department.

81 (m) The city manager shall exercise any and all other powers
82 conferred by the present laws of the state of West Virginia upon
83 mayors of cities, towns or villages, or which shall be conferred
84 upon such officers by any law hereafter enacted, not in conflict
85 with the provisions of this act, except the powers herein, or in any
86 such law, contained relating to the preservation of order and the
87 enforcement of penal ordinances and statutes, which powers in this
88 act are vested in the police court judge.

The City Clerk.

Sec. 15. The city clerk shall keep a complete record of all
2 ordinances, resolutions and acts of the city council. He shall
3 enter in a separate volume all ordinances of a general nature, a
4 violation of which shall subject any person to any penalty, and
5 carefully index the same. All ordinances providing for the is-
6 suing of bonds, the creation of a debt, the construction of any
7 public improvement, or of any local or temporary nature shall
8 be entered in a separate volume by the city clerk, and carefully
9 indexed. He shall keep complete books of account showing all
10 financial transactions of the city and of each department, all re-

10-a ceipts, expenditures made by the city, the sources of all in-
10-b come and the purposes of all expenditures. He shall enter in
11 the municipal assessment docket all special assessments made
12 for public improvements, showing the name of the owner of the
13 property, the particular property on which the assessment is lev-
14 ied, the date of the entry, and the minute book and page showing
15 the entry of the ordinance or resolution creating the assessment,
16 and the maturing time of the assessment. When and as the in-
17 stallments upon principal and interest on each assessment shall
18 be paid, he shall enter such payments showing the amount paid
19 upon principal, the amount of interest, under the heading and in
20 the account of such special assessment. When the special assess-
21 ment, principal and interest, shall have been paid in full, he shall
22 make an entry in red ink on the face of the account showing that
23 the special assessment is fully satisfied and paid. He shall make
24 out all vouchers and pay-rolls of the city, and shall do and per-
25 form all other duties which may be required of him by the council
26 by any ordinance or resolution.

27 He shall attend all meetings of the council and keep in a proper
28 minute book a record of its proceedings, and sign the record of
29 each said proceeding.

30 He shall prepare and cause to be served all notices required to
31 be given to any person, firm or corporation, and after proper
32 service and return thereof of any notice, he shall file and preserve
33 the same.

34 He shall file in convenient form so as to be readily accessible all
35 correspondence carried on by the city or by any department
36 thereof, except the water department, and, as custodian of all the
37 books, records and proceedings of the council, he shall make and
38 certify copies thereof whenever required and affix the corporate
39 seal of the city to any paper required to be sealed and to any cer-
40 tified copy of any paper, order or proceeding which he may make.

41 A copy of any record, paper, entry, order, ordinance, resolu-
42 tion or proceeding made by the council, or by the police court
43 judge when properly certified under the seal of the city shall be
44 admissible as evidence in any court in the state in any proceeding
45 in which the original paper or record, if present, would be admis-
46 sible.

47 Unless otherwise provided by council, the office of the city clerk
48 shall be kept open by the city clerk or by some deputy or assist-

49 ant, on each secular day from nine A. M., until five P. M., for the
50 transaction of the public business.

51 The city clerk shall not be required to perform any duty, make,
52 preserve or keep a record or paper, or give any notice of or re-
53 lating to any of the proceedings of the water board or the water
54 department.

Police Court Judge.

Sec. 16. The police court judge shall perform and
2 discharge all duties and exercise all powers which shall
3 be conferred upon him by ordinance or resolution of
4 the city council, and in addition, he shall exercise the following
5 powers:

6 (a) Enforce all ordinances and resolutions which shall sub-
7 ject any person or corporation to any penalty.

8 (b) See to the preservation of peace and order throughout the
9 city and the protection of property in and throughout the city.

10 (c) Cause all violators of city ordinances to be apprehended
11 and to that end issue warrants upon complaint under oath of
12 any person or officer for the arrest of any one charged with the
13 violation of any ordinance of the city.

14 (d) Supervise and control the police department and by and
15 with the consent of the council appoint all members of the police
16 force, except the chief of police, and require of all members of the
17 police force, including the chief, the proper discharge of their re-
18 spective duties.

19 (e) Try all offenders brought before him and punish by fine
20 or imprisonment or by fine and imprisonment any person con-
21 victed for any offense, and his jurisdiction in that regard shall
22 extend one mile beyond the city limits generally; and for the vio-
23 lation of any ordinance or law prohibiting the pollution of the
24 water or waters from which the city of Clarksburg obtains water
25 for domestic use his jurisdiction shall be co-extensive with the
26 water or waters from which such supplies are drawn: *Provided*,
27 that he shall not exercise jurisdiction over any offense committed
28 within the corporate limits of any other city, town or village.

29 (f) Keep a record of all warrants issued by him, of all per-
30 sons arrested and brought before him, and of all trials, fines or
31 sentences imposed, or judgments entered by him, in a well-bound
32 book to be known as the police court docket. A record of the en-
33 tries made each day in said docket shall be signed by the police

34 court judge at the close of the day. An appeal shall lie to the
35 circuit court or to the criminal court of Harrison county from
36 all judgments of the police court judge wherein and in the man-
37 ner an appeal from the judgment of a mayor of a city is allowed
38 by law.

39 (g) Exercise the power to punish within the limits prescribed
40 by the ordinances of the city or by the laws of the state of West
41 Virginia applicable to the city and not in conflict with this act.

42 (h) Exercise all of the powers and discharge all of the duties
43 for the enforcement of the criminal or penal ordinances and laws
44 conferred or imposed upon the mayors of cities, towns or villages
45 by this act, or by any law of the state of West Virginia, or by
46 any law which may hereafter be enacted by the law making body
47 of said state not in conflict with the provisions of this act, except
48 that he shall not be *ex-officio* a justice of the peace, or exercise the
49 powers of a justice of the peace.

50 (i) In the discharge of his duties and in the trial of cases,
51 the police court judge shall, in so far as practicable, follow the
52 rules of proceeding of the courts of the state of West Virginia
53 which exercise jurisdiction in criminal cases and any person put
54 upon trial for any offense shall be entitled to the assistance of
55 counsel. All cases shall be tried by the police court judge with-
56 out a jury.

57 (j) Discharge any members of the police force except the
58 chief of police: *Provided, however,* that council may reinstate
59 any member discharged by an affirmative vote of two-thirds of all
60 of the members elected to the council.

61 (k) The city council may by resolution or ordinance provide
62 that the police court judge shall be assistant to the city manager
63 and assistant to the city attorney, and that he shall devote all of
64 his time to the discharge of the duties of his office, and shall not
65 while holding said offices engage in any other business or employ-
66 ment or in the practice of law, except in assisting the city attorney
67 in conducting the civil litigation and business in which the city
68 as a party may be engaged.

The City Collector and Treasurer.

Sec. 17. The city collector and treasurer shall have custody
2 of all public moneys of the city; shall keep and preserve such
3 moneys as provided by ordinance or by any law applicable thereto;

4 and shall collect and receive, and shall disburse, upon warrants
5 issued by the proper authority, all public moneys. He shall keep
6 an accurate account of all moneys in his custody, or collected, re-
7 ceived or paid out by him, showing the sources from which the
8 same were received and the purposes for which disbursed. The
9 council may prescribe by ordinance or resolution the manner
10 in which a warrant for the payment of money shall be issued,
11 executed and authenticated. He shall be subjected to the su-
12 pervision and control of the council in all things, and perform all
13 duties prescribed by the council.

14 The city collector shall keep a record of all taxes assessed and
15 levied and shall extend said levies and make out tax bills and re-
16 cepts to be delivered to the tax payers upon the payment of taxes.
17 He shall collect all assessments made against property or prop-
18 erty owners for local benefits and give receipts therefor.

19 He shall keep separate the accounts and funds of all levies and
20 assessments for specific purposes and shall disburse the same only
21 for the purposes for which the levies and assessments were made.

22 He shall pay promptly to the sinking fund trustees hereinafter
23 named all moneys coming into his hands for the account of
24 any sinking fund and shall take receipts for the same.

25 He shall file, preserve and keep all receipts and vouchers for
26 money expended or paid out by him showing the purpose for
27 which the payment was made.

28 If the legislature shall enact a law generally referred to as
29 the "county treasurer law", which shall provide for a county
30 treasurer who shall collect and discharge all taxes, including taxes
31 levied by municipal corporations, the office of city collector and
32 treasurer shall thereby be discontinued and abolished.

City Attorney.

Sec. 18. The city attorney shall be a member of the bar of
2 Harrison county in good standing and shall perform and dis-
3 charge all duties and exercise all powers which shall be conferred
4 upon him by any ordinance or resolution of the city council, and,
5 in addition, he shall exercise the following powers:

6 (a) Be the legal adviser of and attorney and counsel for the
7 city and for all of the administrative officers thereof, (except the
8 water department), in respect to their official duties.

9 (b) Prosecute and defend all suits for or against the city and
10 prepare all contracts, bonds or other writings in which the city

11 is concerned, and endorse on each his approval of the form and
12 correctness thereof.

13 (c) Be prosecuting attorney of the police court and prosecute
14 all cases brought before such court, and perform the same duties
15 so far as they are applicable thereto as are required of the prose-
16 cuting attorney of the county.

17 (d) The city council and all administrative officers of the
18 city may require the opinion of the city attorney upon any ques-
19 tion of law involving their respective powers and duties and he
20 shall furnish the same in writing.

21 (e) Apply in the name of the city to a court of competent jur-
22 isdiction for an order of injunction restraining the misapplication
23 of funds of the city or the abuse of its corporate powers, or the
24 execution or performance of any contract made on behalf of the
25 city in contravention of law, or which was procured by fraud or
26 corruption.

27 (f) When an obligation or contract made on behalf of the city
28 granting a right or easement, or creating a public duty, is evaded
29 or violated, the city attorney shall require the specific perform-
30 ance of the duty by any administrative officer by application for
31 a writ of mandamus to a court of competent jurisdiction.

32 The city manager or city council whenever the exigencies of
33 the business of the city require such action shall have the right to
34 employ special counsel to assist the city attorney.

City Engineer and Street Supervisor.

Sec. 19. The city engineer shall be a competent civil and
2 mechanical engineer and shall discharge all duties and exercise
3 all powers which shall be conferred upon him by any ordinance
4 or resolution of the city council, and in addition, he shall exercise
5 the following powers:

6 (a) Make surveys and fix grades when required by the city
7 council or city manager; prepare plats, plans and specifications
8 of all improvements which may be undertaken when required;
9 and inspect all work done by any contractor for the city while the
10 work is being performed.

11 (b) Supervise the construction of all buildings, the erection
12 of which is controlled or regulated by the city.

13 (c) Furnish to any resident any street or sewer grade when-
14 ever required on such terms as the council shall prescribe.

15 (e) Make complete maps of all streets, alleys, lanes, parks
16 and public property owned by the city and keep the same on file
17 in his office, and furnish a copy thereof to the city manager. He
18 may make recommendations as to the kind of improvements re-
19 quired or suitable for any street, alley, lane, or locality in the
20 city.

21 (f) Have general supervision of the streets and alleys in the
22 city and see that the pavements, sidewalks, gutters and sewers are
23 kept clean and repaired.

24 (g) General supervision of the work of repairing and keeping
25 in repair all pavements, sidewalks, curbs and sewers in the city.

City Physician.

Sec. 20. The city physician shall be a member of the medical
2 profession in good standing and shall discharge all duties and
3 exercise all powers which shall be conferred upon him by any
4 ordinance or resolution of the city council; and, in addition,
5 he shall exercise the following powers:

6 (a) See that all property and premises within the city are
7 kept clean and free from unsightly or obnoxious rubbish and in
8 a thoroughly sanitary condition.

9 (b) See that all ponds, cess-pools and swamps within or ad-
10 jacent to the city are drained, cleaned and rendered sanitary so as
11 not to injuriously affect the inhabitants of the city.

12 (c) Institute before the police court judge all proceedings and
13 prosecutions necessary to enforce all laws, ordinances and regula-
14 tions relating to the preservation and promotion of the public
15 health and necessary to make the city sanitary, and to prevent and
16 restrict diseases, and in so doing, he shall have the assistance of
17 the city attorney.

18 (d) Institute and prosecute proceedings before the city council
19 for the supervision, prevention or abatement of nuisances and in
20 so doing, he shall have the assistance of the city attorney.

21 (e) Provide for the sanitary inspection and supervision of
22 the production, transportation, storage and sale of food and food
23 stuffs, the regulation and inspection of weights and measures, and
24 the collection and disposal of all waste and garbage.

25 (f) In time of epidemic or threatened epidemic, he shall en-
26 force such quarantine and isolation rules and regulations as are
27 appropriate for the emergency.

28 (g) Provide for study and research into cases of poverty, de-
29 linquency, crime and disease. He shall by lectures, public in-
30 structions and otherwise instruct and educate the people of the
31 community in matters affecting the public welfare which relate to
32 sanitation, cleanliness, and how to avoid in so far as possible
33 sickness and disease.

34 (h) Instruct the least informed and most ignorant members
35 of the community how best to avoid and to cure all venereal
36 diseases, and afford them all assistance required in carrying out
37 such instructions. The city council, on his application shall pro-
38 cure the necessary medicines and he shall furnish to the mem-
39 bers of the community who are not financially able to procure the
40 same proper medical care and treatment.

41 (i) Supervise the discharge of all obligations of the city under
42 any law of the United States of America or of the state of West
43 Virginia to treat and care for persons addicted to the use of
44 drugs.

45 (j) Keep or cause to be kept a complete and accurate system
46 of vital statistics.

Chief of Police.

Sec. 21. The chief of police shall discharge such duties as may
2 be required of him by any ordinance or resolution of council and
3 he shall act under the orders of the police court judge in admin-
4 istering the police department.

Chief of the Fire Department.

Sec. 22. The chief of the fire department shall have general
2 supervision and control of the property and appliances of the
3 city to be used for the prevention and extinguishment of fires
4 He shall be under the direction, authority and subject to the or-
5 ders of the city manager at all times in the administration of the
6 fire department. He shall make such inspection as may be re-
7 quired of buildings and property throughout the city in relation to
8 the matter of fire risks.

9 He shall, under the direction of the city manager, discharge all
10 the duties which may be imposed upon him by any ordinance or
11 resolution adopted or passed by the city council.

Public Utility Franchises.

Sec. 22-a. The city council may by ordinance grant permission

2 to any individual, firm or corporation to construct and operate a
3 public utility in, over and under the streets, alleys and public
4 grounds of the city under the provisions of law applicable thereto;
5 but no franchise shall be considered an emergency measure. It
6 may by ordinance renew any franchise to construct and operate a
7 public utility in, over and under the streets, alleys and public
8 grounds of the city, or may grant to any individual, firm or cor-
9 poration operating a public utility the right to extend the appli-
10 ances and service of such utility; but the right to use and maintain
11 any such extension shall expire with the original grant to the
12 utility or of any renewal thereof. It shall control the distribu-
13 tion of space in, over or across all streets or public grounds oc-
14 cupied by public utility fixtures. All rights hereafter granted for
15 the construction and operation of public utilities shall be subject
16 to the continuing right of the council to require such re-construct-
17 tion, re-location, change or discontinuance of fixtures and appli-
18 ances used by the utility in such streets, alleys or public grounds
19 as the council shall deem necessary for the public convenience:
20 *Provided*, that no franchise shall be granted for a period exceeding
21 fifty years, and no renewal thereof shall exceed a like period.

22 *Ordinance Enactment.*

23 Each proposed ordinance or resolution shall be introduced in
24 written or printed form, and shall not contain more than one sub-
25 ject, which shall be clearly stated in the title; but the general appro-
26 priation ordinances may contain the various subjects and accounts
27 for which moneys are to be appropriated. The enacting clauses
28 of all ordinances passed by the council shall be "Be it ordained
29 by the city of Clarksburg:"

30 No ordinance, unless it be declared an emergency measure shall
31 be passed on the day on which it shall have been in-
32 troduced.

33 No ordinance or resolution or section thereof shall be revised or
34 amended, unless the new ordinance or resolution contain the entire
35 ordinance or resolution or section revised or amended and the or-
36 iginal ordinance, resolution, section or sections so amended shall
37 thereby be repealed.

38 The record shall show whenever the vote is unanimous. In all
39 other cases the yeas and nays shall be called and recorded. No
40 member shall vote on any matter in which he has a personal in-

41 terest other than as a tax-payer of the city. Unless excused by a
42 vote of the council all qualified members present shall vote on
43 all roll calls. Any such member refusing to vote shall be re-
44 corded as voting nay.

Financial Statement. Audit.

Sec. 23. At the end of each year the council shall cause a full
2 and complete audit of all the books and accounts of the city to
3 be made by the state tax commissioner, and shall make public
4 the result of such examination. At the end of the year there
5 shall be published a financial statement of the city covering the
6 transactions of the preceding fiscal year, in the manner required
7 by law.

Budget.

Sec. 24. The council shall have the right to make up an es-
2 timate of the proposed improvements for any year and a budget
3 covering the same, at such time as may be deemed most suitable
4 without regard to the requirements of a general statute, and it
5 may from time to time prepare and adopt additional estimates
6 and budgets during the current year whenever in the judgment
7 of the council the public interests will be promoted thereby.

Levies for Roads and Keeping the Poor.

Sec. 25. The city council shall provide for caring for the
2 poor in a proper manner. But if the county court shall levy a
3 tax upon the taxable property in the city applicable to keeping
4 the poor of the county, the county court shall out of the revenues
5 derived from such taxes care for and keep the poor of the city.
6 If no such tax be levied within the city by the county court,
7 the city council shall provide funds for caring for and keeping
8 the poor of the city, and may enter into contracts with the
9 county court of the county to have the poor of the city kept,
10 housed and provided for at the county alms-house at the ex-
11 pense of the city.

12 No tax shall be levied on the property within or the residents
13 of the city of Clarksburg by the county court of Harrison county
14 for constructing, repairing or maintaining any road, bridge, or
15 culvert in the county of Harrison without the consent of the
16 city council to the making and laying of such levy expressed by
17 a resolution adopted by the city council.

18 The city council is authorized to assent to the making or lay-
19 ing of any levy upon the taxable property within the city by
20 the county court of Harrison county for constructing, improv-
21 ing, repairing and maintaining the roads and bridges in and
22 throughout the county, either including or excluding the roads
23 and bridges within the city, and for the laying of levies to pay
24 the interest upon and discharge the principal of any bonds which
25 may hereafter be issued by the county court as the obligations
26 of the magisterial districts adjacent to the city, or of any num-
27 ber or combination of magisterial districts in the county, the
28 making and issuing of which bonds shall have been authorized
29 by the vote of three-fifths of all of the electors, voting on the
30 question, within the magisterial districts creating the debt, in-
31 cluding the voters residing within the city of Clarksburg, on the
32 question of issuing such bonds. The assent of the city once
33 given to issue such bonds and make such levy on the taxable
34 property within the city together with the taxable property with-
35 in the magisterial districts creating the debt shall not be re-
36 voked until the bonds issued under the authority of such assent
37 shall have been paid off and discharged.

Pollution of Water Supply of the City.

Sec. 26. In order to preserve the health and insure the com-
2 fort of the inhabitants of the city of Clarksburg by preventing
3 the pollution of the water and water supply of the city for
4 domestic use, it shall be unlawful for any person, firm, or cor-
5 poration to deposit, discharge, throw or cause to be thrown, into
6 the West Fork of the Monongalia river above the water sta-
7 tion of the city, or into any tributary, brook, or stream which
8 falls or flows into said river above said point, any dead carcass
9 of any animal, fowl, or fish, any sewage or sewage effluent, or
10 the content of any privy or privy vault, or any offal from any
11 slaughter-house or butcher establishment, or any spoiled fish,
12 meat, cheese, lard, molasses, grain, or any obnoxious vegetable,
13 mineral, or animal substance, or any tins in which foods or
14 liquids have been preserved, or any crude oil, refined oil, petro-
15 leum, or any compound or mixture of oil or filth from any oil
16 well, oil tank, oil vat or place of deposit of crude or refined oil, or
17 any other vegetable, mineral or animal substances, or waters charged
18 and polluted with minerals, or combination of two or more of such

19 substances, which of itself or in connection with other matter
20 will or might corrupt, pollute, or impair the quality of the water
21 in said river and streams; or to throw or deposit, cause to be
22 thrown or deposited, or permit to be thrown or deposited upon
23 any premises owned by him or them, upon or near to the mar-
24 gin of said river, creeks and streams, in such proximity as to
25 permit the obnoxious substances to be washed or carried into
26 said river or streams by rains, flooding and drainage; but all
27 liquid substances, the discharge of which into said stream or streams
28 is inhibited, shall be discharged or deposited in the fields at a
29 distance from the margin of any said streams so that they will
30 be thoroughly filtered and cleansed before reaching the streams.
31 Any person convicted of violating any of the provisions of
32 this section by a court of competent jurisdiction shall be fined
33 not more than one thousand dollars and imprisoned in the county
34 jail of the county for not more than one year.

Sec. 27. No person shall locate or permit to remain located
2 any privy, water closet, pig pen, slaughter-house, chicken-house,
3 stable or barn so that the drainage therefrom will enter any of
4 the waters described in section 26 of this act.

Sec. 28. No person shall bathe his person, swim, or wash
2 or cleanse clothing in any storage reservoir in the West Fork
3 river which is constructed or maintained for the city of Clarks-
4 burg for storing water for domestic use, or at any point in said
5 river above the intake or point from which the water for the
6 supply of the inhabitants of the city of Clarksburg is drawn
7 not in a storage dam within five miles from such point of intake.
8 Any person violating any of the provisions of this section shall,
9 on conviction therefor in a court having jurisdiction, be fined
10 not more than one hundred dollars and imprisoned in the county
11 jail not more than sixty days.

Sec. 29. In addition to the penalties provided for violations
2 of the provisions of sections twenty-six, twenty-seven and twenty-
3 eight, of this act, any such violation shall be and construed as
4 a public nuisance, and the commission or continuance thereof
5 may be enjoined by the circuit court of the county in which the
6 act is committed, and the court may by proper orders completely
7 abate any such nuisance and prevent the repeated commission
8 or further continuance thereof.

Contracts—Cost Plus Work.

Sec. 30. Public improvements of all kinds may be made, 2 either by direct employment of the necessary labor and the purchase of the necessary supplies and materials, with separate 3 accounting as to each improvement so made, or by contract duly 4 let after competitive bidding, either for a gross price, or upon 5 a unit basis for the improvement; or by contract containing a 6 guaranteed maximum and stipulating that the city shall pay with- 7 in such maximum the cost of labor and materials, plus a fixed 8 percentage of profit to the contractor. The council, by reso- 9 lution, shall determine by which of the foregoing methods any 10 improvement shall be made. Contracts may provide a bonus 11 per day for completion of the contract prior to a specified date, 12 and liquidated damages to the city to be exacted in like sum for 13 every day of delay beyond a specified date. 14

Changes in Contracts.

Sec. 31. When it becomes necessary in the prosecution of 2 any work, or improvement under contract, to make alterations 3 or modifications in such contract, such alterations or modifica- 4 tions shall be made only upon resolution of the council. No 5 such order shall be effective until the price to be paid for the 6 work and material, or both, under the altered or modified con- 7 tract, shall have been agreed upon in writing and signed by the 8 contractor and the city manager under authority of the council.

Lot Sub-Divisions.

Sec. 32. Any owner of lots or grounds within the city who 2 sub-divides or lays them out for sale, shall cause to be made an 3 accurate map or plat of such sub-division, describing, with cer- 4 tainty all grounds laid out, or granted for streets, alleys, ways, 5 commons, or other public uses. Lots sold or intended for sale 6 shall be numbered by progressive number, or described by the 7 squares in which situated, and the precise length and width shall 8 be given of each lot sold or intended for sale. Such map or plat 9 shall be subscribed by the owner and lien holders, acknowledged 10 before an officer authorized to take the acknowledgment of deeds, 11 approved by the city manager, and recorded in the office of the 12 clerk of the county court.

13 The map or plat so recorded shall thereupon be a sufficient
14 conveyance to vest in the city the fee of the parcels of land
15 designated or intended for streets, alleys, ways, commons, or
16 other public uses, to be held in the corporate name in trust to
17 and for the uses and purposes in the instrument set forth, ex-
18 pressed, designated, or intended.

19 The city, however, shall not be required to open or improve
20 any street or alley shown on such plat until the public need re-
21 quires the same to be opened and improved, and it shall not be
22 liable to any person in any manner whatever who may or shall
23 use any of such streets or alleys before the same shall have been
24 formally accepted by the council on the part of the city and or-
25 dered to be opened and improved.

26 No such plat sub-dividing lands within the corporate limits
27 of the city shall be recorded by the clerk of the county court in
28 his office until the same shall have been approved by the city
29 manager, and his approval in writing endorsed on such plat.

Motor Vehicles.

Sec. 32-a. The city council shall have power to license and
2 regulate by ordinance all taxi-cabs, automobiles and vehicles of
3 like motive power engaged in the transportation of passengers
4 or freight for hire over the streets and alleys of the city, and
5 may require bond from the owners thereof for their faithful
6 compliance with all ordinances and rules and regulations made
7 in pursuance thereof; also to regulate and fix the rate of charges
8 to be made for transporting and hauling passengers and freight,
9 and to make it unlawful to charge a higher rate than the maxi-
10 mum fixed by the council.

Code of Laws.

Sec. 33. The council may enact laws, by-laws and ordinances
2 which when adopted shall be printed in book form, or the same
3 may be adopted as a whole after they are printed, and such code
4 shall be the laws and ordinances of the city and shall be received
5 as such in all courts of the state, and the laws, ordinances, and
6 rules as printed therein shall be *prima facie* proof of their own
7 correctness.

8 No ordinance, law, or by-law imposing any penalty or for-
9 feiture upon an inhabitant shall be valid or of any effect until
10 recorded in the ordinance book of the city.

Continuance of Contracts.

Sec. 34. All contracts entered into by the city or for its
2 benefit prior to the taking effect of this act shall, if valid, con-
3 tinue in full force and effect. All public work commenced prior
4 to the taking effect of this act shall be continued and performed
5 thereunder. The municipal corporation herein created shall suc-
6 ceed to all the rights and be subject to all of the liabilities of
7 the municipal corporation which it succeeds, or of which it is but
8 a continuation.

Service of Notices.

Sec. 35. Whenever any notice is required to be given by the
2 city or any department thereof, or any summons, warrant or
3 other process is required to be served or otherwise executed un-
4 der the provisions of this act, it shall be sufficient if such notice,
5 summons, warrant or other process be served or executed and re-
6 turn thereof be made by any member of the police force of said
7 city in the same way or manner in which the laws of the state
8 provide for serving and executing notices, summons and war-
9 rants by state officers, unless otherwise provided in this act.

Assessments for Removing Snow, Weeds, etc.

Sec. 36. The city council shall have power to provide by or-
2 dinance for assessing against the abutting property the cost of
3 removing from sidewalks all accumulations of snow and ice and
4 for assessing against the property the cost of removing rubbish and
5 the cutting and removing of noxious weeds from any lot or grounds
6 in the city.

Eminent Domain.

Sec. 37. The city of Clarksburg as herein created or contin-
2 ued shall have the right under the power of eminent domain to
3 condemn, acquire and appropriate any property and acquire the
4 fee simple title or any lesser estate or easement therein for any
5 public use, whether said property be located within or outside
6 of the corporate limits of said city, including the right to acquire
7 property for opening and widening streets, alleys and public
8 places, and for the construction and maintenance of sewer lines,
9 sewage disposal plants, water lines and mains, pump stations,
10 reservoirs or reservoir sites, dams for storing water, and the

11 right to create storage reservoirs by flooding adjacent properties.
12 and for every other purpose required in the construction, main-
13 tenance and operation of water systems and plants for the pur-
14 pose of supplying water to the public. The proceedings to ac-
15 quire such lands, estates, or easements shall be the same as pro-
16 vided by general laws of the state of West Virginia for con-
17 demning and appropriating private property for a public use.

The Clarksburg Water Board.

Organization.

Sec. 38. The water board of the city of Clarksburg in exist-
2 ence when this act goes into effect shall be continued, and the
3 administrative officers and employees of the water board shall
4 continue in their respective offices and employments until re-
5 moved and superseded by the water board. At its first regular
6 meeting after each regular election, or as soon thereafter as
7 practicable, the water board shall appoint a general manager
8 for the water works plant, who shall *ex-officio* become secretary
9 and treasurer of the water board and shall devote all of his time
10 to the public service of the city of Clarksburg, and while holding
11 such office shall not be engaged in any other business or accept
12 any other employment. They may create and discontinue such
13 other administrative offices and employments as in their judg-
14 ment the needs of the department shall require, and fill by ap-
15 pointment all such administrative offices. They shall fix, pres-
16 cribe and limit the compensation to be paid to the general man-
17 ager and to all other administrative officers and employees of
18 the water board and the time and manner of making such pay-
19 ment. The general manager and other employees of the de-
20 partment shall hold their respective offices and employments at
21 the pleasure of the board.

Meetings of the Board.

Sec. 39. Regular meetings of the board shall be held monthly
2 on a day designated by resolutions of the board, and special
3 meetings may be called at any time by any member of the board
4 or by the secretary. It shall require at least two members of
5 the board to constitute a quorum for the transaction of business.

Compensation.

Sec. 40. The members of the water board shall receive such

2 compensation as they shall from time to time fix by resolution,
3 which shall not exceed three hundred dollars a year for each
4 member. The compensation shall be payable in such manner
5 as the board by resolution may prescribe. The board shall pro-
6 vide by resolution for the election of one of its members as
7 president of the board and shall specify the period or term of
8 the presidency, and at the last regular meeting before the expir-
9 ation of the term of the presidency of the board, they shall elect
10 a successor to the office. They may fill a vacancy in the presi-
11 dency caused by death, resignation or otherwise at any regular or
12 special meeting.

General Powers.

Sec. 41. The water board shall have and exercise all of the
2 powers conferred upon municipalities by the laws of the state
3 of West Virginia now in effect or which shall hereafter be enact-
4 ed for the construction, operation and management of municipi-
5 pal-owned water plants, and without any limitation upon such
6 general powers they shall exercise the following.

7 (a) Fix, regulate and change rates and charges for water
8 supplied to all consumers, and adopt and prescribe reasonable
9 rules and regulations which shall be observed and obeyed by all
10 consumers in reference to the use and consumption of water taken
11 from the city mains; the terms and conditions upon which con-
12 nections to the said mains shall be permitted, and the place and
13 manner of making the same; fix penalties by way of additional
14 charges for failure to pay water rents promptly, and to this
15 end may discontinue the supply of water to any consumer who
16 fails to pay for the same as required; require all users of water
17 for temporary purposes to pay for the privilege in advance; re-
18 fuse to furnish water to any building or habitation in the city
19 unless the owner thereof shall assume liability for the payment of
20 the charges for the water so furnished; charge the cost of in-
21 stalling water service lines from the curb line to the mains against
22 the land owner, and require the payment in advance for in-
23 stalling such line and making connection with the water main.

24 (b) The powers of the water board to fix and charge rates
25 for water and water service contained in paragraph (a) shall
26 be subject to such supervision, regulation and control by the
27 public service commission of the state of West Virginia as that

28 body is now or shall hereafter be authorized by the laws of the
29 state to exercise over municipal-owned public utilities or mu-
30 nicipal officers operating the same.

31 (c) Whenever the city council shall determine to pave or re-
32 pave any street in the city, the water board is authorized to make
33 a proper connection and lay a water service line from the main
34 to the curb for each and every lot or for any part of a lot under
35 separate ownership, although no water service may at the time
36 be necessary or required for any such lot or part of lot, and to
37 charge the cost of making such connection and laying such water
38 service lines against the owner of the property and the cost of
39 laying such water service lines and making such connections
40 shall in every instance be a lien upon the lot or part of lot to
41 be benefitted thereby, and the water board shall have the right
42 in the name of the city to institute and prosecute any proper suit
43 in the circuit court of Harrison county, West Virginia for the
44 collection of such charges by a sale of the property on which
45 the same constitutes a lien.

46 (d) The board shall have power from time to time to repair,
47 extend and amplify the water works' plant and system, and to
48 make such additions to the pumping station, filtration plant
49 and water mains and lines as may at any time and from time to
50 time be deemed necessary for the proper operation of this sys-
51 tem.

52 (e) The water board shall require the general manager to
53 examine the sources of water supply for the city of Clarksburg
54 and to report to the water board from time to time whether the
55 waters are being polluted in violation of the provisions con-
56 tained in this act, and the water board may, in the name of the
57 city of Clarksburg, institute and prosecute in any court having
58 jurisdiction, any suits or proceedings necessary to prohibit any
59 and all persons, firms, or corporations from polluting said waters
60 in any manner in violation of the provisions of this act and in
61 violation of any ordinance which the council of the city of
62 Clarksburg may, pursuant to any authority contained in this
63 act, hereafter adopt.

64 (f) The water board is herein specifically authorized to pay
65 the interest upon, and by payments into the sinking fund, to pay
66 and discharge, all of the bonds heretofore issued by each of the
67 several municipalities included in the city of Clarksburg hereby

68 created, the proceeds of which were expended by said municipal-
69 ity in the construction and installation of water works systems
70 and plants therein.

71 (g) The board shall cause to be prepared accurate and com-
72 plete maps, plans and specifications of any improvements, ex-
73 tensions or additions to the water system, which they may de-
74 sire to make and they shall have the authority to cause said work
75 to be done either by the employment of labor and the furnishing
76 of material, or by entering into a contract for the performance of
77 the labor and for the material. All contracts for furnishing ma-
78 terial or the performance of any work shall be let on competi-
79 tive bids in the manner provided by the laws of the state of
80 West Virginia, and notice of any letting may be given as pro-
81 vided in section sixty-eight of this act. Any change or alter-
82 ation in a contract after it is entered into shall be made only
83 upon resolution passed by the water board, and shall not be
84 effective until the price to be paid for the work and material, or
85 both, under the altered or modified contract, shall have been
86 agreed upon in writing and such agreement signed by the con-
87 tractor, the president of the water board and the general manager.

General Manager.

Sec. 42 (a) Subject at all times to the control of the water
2 board, the general manager shall have charge of all the water
3 works plant and system, and shall exercise supervision and con-
4 trol over all of the employees of the water board. He shall en-
5 force all ordinances, rules and regulations heretofore adopted,
6 or which may hereafter be adopted by the water board, and all
7 laws of the state of West Virginia applicable to the water works
8 system or plant, except that any ordinances or laws subjecting
9 any person to a fine or imprisonment for the violation thereof
10 shall be enforced by the police court judge. He shall have gen-
11 eral supervision of the pumping plants and stations and fil-
12 tration plant, and shall collect and preserve all moneys payable
13 to the water board, and shall pay the same out only upon the
14 order of the water board in such manner as it may by rules and
15 resolutions prescribe. He shall attend all meetings of the water
16 board and shall keep in a well-bound book a complete record
17 of all proceedings of said board, and shall, with the president
18 of the board, authenticate with his signature the record of the

19 proceedings of each meeting. He shall keep, or cause to be
20 kept, full and accurate books of account covering all the business
21 and transactions of the water works department of the city,
22 charging the water board with all moneys received from every
23 source, and crediting the same with all expenditures and dis-
24 bursements.

25 (b) As treasurer of the water board he shall be responsible
26 for the safe keeping of the moneys, property, books and records
27 of the board. He shall pay out the moneys of the board only
28 for the purposes authorized by law and upon vouchers drawn
29 by him and countersigned by at least two members of the board.

30 (c) Shall cause to be made and kept on file for public in-
31 formation at the office of the board, complete maps, plans and
32 details showing the dams, pumping stations, reservoirs, tanks,
33 pipes, valves, connections, water lines, fire hydrants, and all
34 other data necessary for a complete exhibition of the physical
35 properties of the water works plant or system, which maps or
36 plats shall be from time to time revised and extended.

37 (d) The general manager shall be the purchasing agent for
38 the water board, and shall purchase all material for the con-
39 struction, improvement, or repair of the water system and all
40 supplies needed in the operation of the water plant or system
41 and except in cases of emergencies, all such purchases shall be
42 upon competitive bids. Dealers in supplies and materials of the
43 kind required shall be notified by him by letter of the require-
44 ments of the city and asked to submit propositions for furnish-
45 ing the same, and the offer most advantageous to the city, tak-
46 ing into consideration the quality, time of delivery, and all other
47 conditions, shall be accepted.

48 All offers to furnish material and supplies shall be attached
49 to the accepted offer and shall be filed and preserved with the
50 records of the department.

51 (e) He shall also recommend to the board from time to time
52 the additions, changes, repairs and improvements to the water
53 works system or plant that he may deem necessary; and shall
54 keep the board fully advised as to the financial condition and
55 the needs of the department. He shall perform all other duties
56 that may from time to time be required of him by the board,
57 or by any law of the state of West Virginia.

58

Audit.

59 The general manager shall, at the close of any fiscal year,
60 cause a complete audit to be made of all the books and records
61 of the department for the preceding year, by the state tax com-
62 missioner or supervisor of public accounting for the state of
63 West Virginia, and he shall cause to be published, the report
64 made by the auditor, together with such other report and in-
65 formation concerning the operation of the department as may
66 be deemed necessary for the information of the public. A report
67 of the auditor shall be published once in the two principal news-
68 papers of opposite politics published in the city of Clarksburg,
69 and the same shall constitute the financial statement of the de-
70 partment, the publication of which is required by general law.

Issuing of Water Works Bonds.

Sec. 43. The city of Clarksburg is authorized to issue in
2 the manner prescribed by law bonds for the purpose of raising
3 funds to improve, extend, add to, or replace the water works
4 plant, or any part thereof, or to refund any bonds of the city,
5 the proceeds of which were expended in constructing, extending,
6 repairing or maintaining the water works plant or any part
7 thereof. Any bonds issued for any of the purposes stated in this
8 section shall contain in the title or sub-title thereto the words,
9 "Water Works Bonds," in order to identify the same, and shall
10 be of the form, denomination and maturity, and shall bear the
11 rate of interest fixed by resolutions of the water board. The
12 city council may provide for issuing bonds for other lawful pur-
13 poses of the city in the same ordinance in which provision shall
14 be made for issuing bonds authorized under this section. The
15 water board shall pay all of the costs and expenses of any elec-
16 tion which shall be held to authorize the issue of water works
17 bonds only. The expenses of holding an election to authorize the
18 issue of water works bonds and bonds for other municipal pur-
19 poses shall be paid by the water board and the city council res-
20 pectively in the proportion that the water works bonds bear to
21 the total amount of bonds authorized.

22 Whenever the council of the city, and the requisite majority
23 of the voters thereof, shall authorize in the manner provided by
24 law, the issuance of bonds for the purpose of improving, replac-

25 ing, extending, or adding to the water works system of said city,
26 or for refunding any outstanding bonds, the proceeds from which
27 were applied to any of said purposes, by the city of Clarksburg,
28 or any of the existing municipalities which are hereby included
29 in the city of Clarksburg herein created, said bonds shall be
30 issued and delivered to the water board to be by them sold in
31 the manner provided by law, and the proceeds paid into the
32 treasury of the water board, and the same shall be applied and
33 utilized by the water board for the purposes prescribed by the
34 ordinance authorizing the issuance of such bonds. In any or-
35 dinance for the issuance of bonds for such purposes, it shall be a
36 sufficient statement of the purposes for creating the debt, to
37 specify that the same is for the purpose of improving, extend-
38 ing, replacing or adding to, the water works system or plant of
39 the city of Clarksburg, without specifying the particular im-
40 provements, extensions replacements or additions contemplated;
41 but an ordinance for refunding bonds shall designate the issue
42 and number of bonds which it is proposed to refund.

Application of Funds.

Sec. 44. All revenues derived from the operation of said water
2 works system or plant, or from the sale of bonds issued for re-
3 pairing, improving, enlarging, extending or adding to said water
4 works plant shall be applied to the payment of the cost of opera-
5 tion and of making such improvements, to the payment of inter-
6 est upon any bonds and the sinking fund to pay off and discharge
7 the same, which the water board is herein authorized to assume
8 and pay, whether said bonds were heretofore or may be hereafter
9 issued. Out of the revenues derived from the operation of said
10 water works, the board is authorized to pay all salaries and ex-
11 penses which may be incurred by it in the exercise of any power
12 herein conferred or the performance of any duty herein imposed,
13 or by general law conferred or imposed, upon the water board.

Supply Water Outside of City.

Sec. 45. The water board may in their discretion supply, sell
2 and furnish water for consumption and use outside of the city, or
3 for use in industries located adjacent to the city and to afford fire
4 protection for the same. All water so supplied and services
5 rendered shall be upon such conditions and terms as the water

6 board may prescribe or require, and reasonable charges over and
7 above the rate charged within the city for water and like service
8 may be made for all water supplied and services rendered outside
9 of the city.

10 The board may discontinue supplying water or furnishing ser-
11 vice to persons, firms or corporations outside of the city whenever
12 in the judgment of the members of the board such discontinuance
13 is advisable in order to adequately supply the needs of water con-
14 sumers in the city and to afford proper protection to property
15 therein.

Eminent Domain Exercised.

Sec. 46. The power of eminent domain herein conferred upon
2 the city may be exercised by the water board in the name of the
3 city for the purpose of acquiring title to land or any estate, ease-
4 ment or interest therein for the use of the water board in con-
5 structing, extending, replacing, repairing or maintaining the
6 water works plant, or for securing, storing and transporting water.
7 The city council shall pass and adopt any orders, resolutions or
8 ordinances required by the water board to facilitate the exercise
9 of eminent domain by the water board. The cost and expenses
10 of exercising the right of eminent domain by the water board shall
11 be paid by that body out of the revenues of the water department.

Employment of Counsel.

Sec. 47. The water board may employ counsel to assist and
2 advise them in the discharge of their duties and to institute, prose-
3 cute and defend for the water board in the name of the city suits,
4 proceedings and prosecutions to enforce the proper authority and
5 obligations of the water board, and to defend them in their rights,
6 and to enable them to adequately discharge their duties; the cost
7 of any litigation conducted by the water board, as well as all fees
8 and compensation for counsel employed by it shall be paid by the
9 water board out of the revenues of the department.

Licensing Plumbers.

Sec. 48. The water board may require all persons who engage
2 in the business of plumbing to pass an examination and obtain a
3 license or certificate for such purpose. For this purpose there
4 is hereby created a board of examiners of four persons to consist
5 of the president and the general manager of the water board and

6 of two other persons selected by them, one of whom shall be a
7 master plumber and the other a journeyman plumber. The
8 license shall be for such term or period as may be prescribed by
9 the examining board. The president and the general manager
10 of the water board shall not receive any compensation for serving
11 on the board of examiners, but the additional members shall be
12 entitled to a sum not exceeding five dollars a day for each day
13 of actual service, to be paid out of the funds of the water board.
14 The general manager of the water board shall be *ex-officio* secre-
15 tary of the board of examiners and he shall make out and certify
16 and the president of the board shall countersign, all certificates or
17 licenses, and said secretary shall keep and preserve all papers and
18 records relating to the work of said board. The board of examiners
19 shall be governed by any ordinance in force in the existing city of
20 Clarksburg when this act goes into effect, or which may be passed
21 by the council of the city of Clarksburg hereby created.

Bonds of Owners and Employees.

Sec. 49. Each officer and employee of the city in each and all
2 of the departments of the city government into whose custody or
3 control shall come any of the moneys or funds belonging to the
4 city shall before receiving any such money or funds enter into bond
5 conditioned for the faithful discharge of his duties and for the
6 faithful accounting for all moneys coming into his hands, custody
7 or control, by reason of his office or employment, and otherwise
8 conditioned according to law. Such bond shall be in the penalty
9 sufficient to secure the city against any loss, the amount thereof
10 to be fixed by ordinance of the city council, or if required in the
11 water works department, by resolution of the water board. All
12 such bonds shall be payable to the city of Clarksburg, a municipal
13 corporation, and all suits for the enforcement of the penalty of
14 any bond shall be in the name of the city of Clarksburg. All
15 bonds required shall be of the form and tenor prescribed by the
16 city attorney and shall be approved by the city attorney as to the
17 sufficiency of the sureties thereon, and such approval as to the
18 form and tenor of the bond and the sufficiency of the sureties
19 shall be endorsed on each bond and certified and signed by the
20 city attorney. All such bonds when executed and approved shall
21 be recorded in a book kept for that purpose by the city clerk, and
22 the original bonds shall then be delivered to the city attorney who

23 is hereby made custodian of all such bonds. At the annual
24 audit required to be made by the state tax commissioner or super-
25 visor of public accounting for the state of West Virginia, the
26 auditor shall report to the city council and to the water board
27 respectively whether or not the bonds required and taken by said
28 city council and said water board are in any respect insufficient,
29 or not properly executed, and may require of any official or em-
30 ployee of the city a new bond or additional bond, and any new
31 or additional bond so required by the auditor of any official or
32 employee shall be given within thirty days after notice of such
33 requirement, and a failure to give such bond shall at the expira-
34 tion of thirty days forfeit the office or employment of the official
35 or employee failing to give the same.

Sinking Fund Trustees.

Sec. 50 The sheriff of the county of Harrison, the city manager
2 of the city of Clarksburg, and the treasurer of the water board of
3 the city of Clarksburg at the time holding said respective offices and
4 employments, are hereby created trustees for the sinking fund or
5 sinking funds payable by the city of Clarksburg and by the water
6 board of said city for the discharge of any bonds heretofore issued
7 by the city of Clarksburg, or which may hereafter be issued by the
8 city of Clarksburg as herein created, the bonds here-
9 tofore issued by the town of Broad Oaks, the town of
10 Stealey Heights, the town of Adamston and the town
10-a of North View. Said trustees shall have control of all sums
11 which have heretofore been paid into the sinking fund for the
12 discharge of any such bonds issued by the city of Clarksburg,
13 or either of the said municipalities which are included in the city
14 of Clarksburg, as well as all payments which shall be made into
15 the sinking fund hereafter by the city of Clarksburg as hereby
16 created. The trustees shall invest, preserve, keep, apply and ac-
17 count for the moneys constituting such sinking fund or sinking
18 funds in the manner now or hereafter provided by law. The trus-
19 tees of the sinking fund for the city of Clarksburg are author-
20 ized and empowered to designate as a city depository or deposit-
21 ories of public moneys any bank, banks, trust company or trust
22 companies, located in the city of Clarksburg, which might qualify
23 as a county depository under the provisions of chapter eighty-four
24 of the acts of the West Virginia legislature, regular session nine-
25 teen hundred and fifteen. Any bank, or trust company designated

26 as a depository for the city of Clarksburg shall give bond or
27 deposit securities and qualify in all respects before receiving any
28 city deposits as a county depository is required to qualify under
29 the provisions of the act of the said legislature, chapter eighty-four,
30 regular session nineteen hundred and fifteen: *Provided, however,*
31 no city depository shall be required to pay interest upon city
32 moneys deposited with it subject to check or upon checking ac-
33 counts at a rate greater than two per centum upon the daily cash
34 balances, the rate to be paid to be agreed upon by and between
35 the depository and the said trustees from time to time. Any
36 duty required to be performed by the county court by the pro-
37 visions of said chapter eighty-four of the acts of the legislature,
38 session 1915, shall be performed by the city council,
39 or the water board, and any duties required by the clerk
40 of the county court, or prosecuting attorney of said county,
41 by the terms of said act, shall be performed by the city clerk
42 and the city attorney for the city of Clarksburg, or the secretary
43 or attorney of the water board in carrying out the provisions of
44 this present act. Any interest paid upon any fund by any depository
45 shall be credited to the particular fund upon which the same ac-
46 crues.

47 When a city depository or depositories shall have been designated
48 and shall have qualified under this act, all public moneys be-
49 longing to the city of Clarksburg, no matter from what source
50 derived, shall be deposited and kept on deposit until expended by
51 the said city of Clarksburg, in the depository or one or more of
52 the depositories authorized to receive deposits and designated as
53 aforesaid.

Political Belief; Assessments and Activity.

Sec. 51. No person in the service of the city of Clarksburg.
2 or seeking admission thereto, shall be appointed, reduced or re-
3 moved, or in any way favored or discriminated against because
4 of political opinions, affiliations; or because of race, color or re-
5 ligious belief. No officer or employee of the city shall directly
6 or indirectly solicit or receive, or be in any manner concerned,
7 in soliciting or receiving any assessment, subscription or con-
8 tribution for any party or political purpose whatever. Any
9 person violating the provisions of this section shall be guilty of
10 a misdemeanor, and upon conviction thereof shall be fined fifty
11 dollars.

*Improvements and Assessments.**Local Improvements.*

Sec. 52. Council shall have power by ordinance to provide for
2 widening, grading, paving, repaving, curbing, sewerage and other-
3 wise improving in a permanent manner with suitable materials any
4 street or alley, or part thereof, in the city, either by contract or
5 directly by the employment of labor, and to provide for the pay-
6 ment of all or any part of the costs of any such improvement by
7 levying and collecting special assessments upon abutting, adjacent
8 and contiguous or other specially benefited property. Any part
9 or all of the property which is to be ultimately sewerage or drained
10 by a trunk line or main sewer or sewer system, may be assessed for
11 the construction of the same. No property shall be exempt from
12 assessment for local improvements because of the ownership or
13 uses to which such property is devoted; except property of the
14 United States. The amount assessed against the property special-
15 ly benefited to pay for such local improvements shall not exceed
16 the amount of benefits accruing to such property. The city man-
17 ager and the city engineer shall determine the particular proper-
18 ties to be assessed with the cost of constructing any sewer.

Method of Assessments.

Sec. 53. Special assessments upon the property deemed bene-
2 fited by a public improvement shall be by any one or more of the
3 following methods:

4 (a) By a percentage of the value of the property as assessed
5 for taxation.

6 (b) In proportion to the benefits which may result from the
7 improvement.

8 (c) By the foot frontage of the property bounding or abutting
9 upon the improvement.

10 If the latter method is used the property shall be divided into
11 certain classes by city blocks, or otherwise, so that all of the
12 property in any class shall be as nearly as practicable of the same
13 value a front foot, and the total amount to be raised by special
14 assessments shall be apportioned among the several classes into
15 which the properties may be divided in proportion to the values
16 of the respective classes.

17 The assessment a front foot upon any lot may be apportioned
18 between or among the respective owners of the property to an en-
19 tire lot depth in proportion to values as well as in proportion
20 to the benefits received from the improvement.

Preliminary Resolutions.

Sec. 54. When it is deemed necessary to make any improve-
2 ment to be paid for in whole or in part by special assessments,
3 the council shall declare the necessity therefor by resolution, and
4 such resolution shall designate the street or streets, alley or
5 alleys to be improved, and the method of assessment and mode of
6 payment, and the number of annual installments, together with
7 the total estimated cost of the improvement. Such resolution
8 shall be certified to the city manager who shall thereupon proceed
9 to make an assessment report in accordance with the method of
10 assessment provided in the resolution, which report shall be filed
11 with the council and shall show the lots and lands assessed and
12 the amount of the assessment as to each, together with the amount
13 of benefit or damage to each lot or parcel of land to be assessed,
14 and also an estimate of the life of the improvement, and the num-
15 ber of annual installments in which the assessment shall be paid
16 shall be fixed, but in no case shall they be greater in number than
17 the estimated years of the life of the improvement.

Plans for Improvements.

Sec. 55. At the time of the passage of the resolution provided
2 for in section fifty-four, there shall be on file at the office of the
3 city manager plans, specifications, estimates and profiles of the
4 proposed improvements, giving full information in detail of the
5 work or improvement and of the kind and character of materials
6 to be used therein, and the same shall be open to inspection by the
7 public.

Notices Served.

Sec. 56. Upon the filing of such report the city clerk shall cause
2 written notice to be served upon the owner of each lot or parcel
3 of land to be assessed, or otherwise affected, or upon the persons
4 in whose names the same may be assessed for taxation upon the
5 tax duplicate. Said notice shall be served in the manner pro-
6 vided for service of summons in civil actions; and as to all non-
7 residents and persons not found within the city publication of

8 such notice shall be made at least once in a daily newspaper of
9 general circulation in the city.

10 Said notice shall contain a statement of the character of the pro-
11 posed improvements, the fact that such assessment report has
12 been filed with the council, the name or names of such assess-
13 ments, the amount of the assessments, the number of installments,
14 the total estimated cost of the improvement, the amount of benefit
15 or damage to such lot or parcel of land, and shall state a time
16 and place when complaints and claims will be heard before the
17 board of revision of assessments.

Board of Revision of Assessments.

Sec. 57. The city manager, city attorney and city engineer shall
2 constitute the board of revision of assessments which shall organize
3 and meet at times and places to be provided by its rules, and shall
4 hear all claims and objections as to the character of all improve-
5 ments to be paid for in part or in whole by special assessments,
6 the necessity therefor, and the equity of the assessments as pro-
7 vided in the assessment report. A majority of those constituting
8 the board of revision of assessments shall have power to determine
9 all complaints and objections submitted to it; and as to each im-
10 provement the board shall, after such hearing, approve, amend,
11 equalize or adjust the assessment reported in every detail and
12 shall report its findings as to the necessity for the improvements
13 and any amendment it directs in the assessments, the estimate of
14 benefit and allowance of damages, to the council.

Claims for Damages.

Sec. 58. An owner of a lot or of land bounding and abutting
2 upon a proposed improvement, claiming that he will sustain dam-
3 age by reason of the improvement, shall present such claim to the
4 board of revision of assessments within two weeks after the service
5 of notice or the completion of the publication hereinbefore pro-
6 vided. Such claim shall be in writing and shall set forth the
7 amount of damages claimed, with a general description of the
8 property with respect to which it is claimed the damage will ac-
9 crue, and shall be filed with the board of revision of assessments.
10 Any owner who fails so as to do shall be deemed to have waived
11 any such damages and shall be barred from filing a claim or in-
12 stituting any suit for damages. This provision shall apply to all

13 damage which will obviously result from the improvement, but
14 shall not deprive the owner of his right to recover damages arising, without his fault, from wilful or negligent acts of the city or
15 of its agents. If, subsequent to the filing of such claim, the owner
16 sells the property, or any part thereof, the right of damages, if
17 any, shall follow the ownership of the land without other trans-
18 reference of the claim. The board of revision of assessments shall
19 report to the council all such claims for damages filed with it.
20

Final Assessment.

Sec. 59. Whenever the board of revision of assessment shall
2 have made its final report to the council as to any improvement,
3 the council, if it determine that the improvement shall proceed,
4 shall pass an ordinance levying the assessment as reported by the
5 board of revision of assessments and directing that the improve-
6 ment proceed. In such ordinance it shall be sufficient to de-
7 scribe the lots and lands abutting upon the improvement and to
8 be assessed therefor, as all the lots and lands bounding and abut-
9 ting upon such improvement between and including the termini
10 of the improvement; and in describing lands which do not abut,
11 it shall be sufficient to describe the lots by their appropriate lot
12 numbers, and the lands by metes and bounds; and this rule of
13 description shall apply in all proceedings in which lots and lands
14 are to be charged with special assessments.

Damages Assessed.

Sec. 60. At the time of the passage of the ordinance determin-
2 ing to proceed with the improvement as hereinbefore provided, the
3 council shall determine whether the claims for damages so filed
4 shall be allowed and paid or judicially inquired into either be-
5 fore or after the completion of the proposed improvement. If
6 it decides that the damages shall be assessed before commencing
7 the improvement, the city attorney shall file a petition in the cir-
8 cuit court of Harrison county, West Virginia, in order to have
9 such damages assessed, and the court shall thereupon empanel a
10 jury of freeholders and try the question of whether said property
11 shall be damaged, and if damaged, the amount of damages to
12 which the owner is entitled. When the council decides not to
13 have the damages assessed before the completion of the improve-

14 ment for which a claim for damages has been filled as hereinbe-
15 fore provided, the property owner may at any time within six
16 months after the completion of the improvement institute a suit
17 for such damages in a court of competent jurisdiction. No such suit
18 shall be maintained unless instituted within six months from the
19 time of the completion of the improvement.

Lands Unallotted or Not on Duplicate.

Sec. 61. When special assessments are levied by the per-
2 centage of tax value of the property assessed or by the foot front-
3 age of the property bounding and abutting upon the improvement,
4 and there are lands subject to such assessment which are not
5 assessed for taxation, the city manager shall fix, for the purpose
6 of such assessment, the value of such lots as they stand and of
7 such lands at such depths as the city manager considers a fair
8 average of the depth of lots in the neighborhood, so that it will
9 be a fair average of the assessed value of other lots, in the neigh-
10 borhood. Where lands are not subdivided into lots, but are
11 assessed for taxation, the city manager shall fix the value and the
12 depth in the same manner; but the above rule shall not apply
13 in making a special assessment according to benefits.

Included in Costs of Improvements.

Sec. 62. There shall be included in the cost of improvements
2 which may be assessed against properties benefitted the cost and
3 expense of preliminary and other surveys, of making and pre-
4 paring plats, plans and specifications, and of printing and pub-
5 lishing notices, ordinances and resolutions required to be published
6 in relation thereto, the cost of supervising the work and the
7 damages caused to abutting property, as well as the cost of con-
8 struction; and there shall be excluded the cost of improving and
9 paving intersections of streets and alleys, the cost of land ac-
10 quired, and any amount which any street car or other railway
11 company may be required to contribute toward such work. Any
12 street car or other railway company occupying any street or alley
13 with its tracks or railway shall pay the cost of paving the space
14 between the rails and for two feet additional outside of each rail,
15 unless otherwise provided in the franchise of such street car or
16 other railway company which was granted prior to the passage
17 of this act, in which case the cost of that part of the pavement

18 or other improvement which can lawfully be charged against such
19 street or other railway company under its franchise shall be
20 assessed against and paid by it. The city shall pay out of the
21 general fund the cost of paving and improving the intersection
22 of streets and alleys, except such part thereof as may be assessed
23 against a street car or other railway company as above set forth.

Specifying Time of Payment.

Sec. 63. If the council shall decide to pay for the work
2 of improvement as the work progresses and upon completion of
3 the work, in the ordinance directing the assessments to be made
4 to cover the cost of such work or of any part thereof they shall
5 provide for the payment of the assessments at such time or times
6 as are necessary to provide funds for payment for the improve-
7 ments as the work progresses, and upon the completion of the
8 same. And in that event if any installments shall not be paid
9 when due, there shall be added interest thereon from the time due
10 and payable at the rate of six per centum per annum, and a penalty
11 of five per centum of the installment not paid when due.

What Included in Assessment.

Sec. 64. The work undertaken may include widening, grading,
2 paving, re-paving, curbing, sewerage and otherwise improving a
3 street or streets, alley or alleys, and a part of the cost of sewerage
4 the street or streets, alley or alleys, may properly be assessable un-
5 der this act upon property against which no assessment may be
6 made for the other improvements upon such street or streets, alley
7 or alleys, and in that event the cost charged against any lot or par-
8 cel of land which may properly be charged with a part of the cost
9 of the entire improvement including the sewerage shall be in-
10 cluded in a single assessment.

Time of Payment When Bonds are Issued.

Sec. 65. If the council shall decide to provide funds for widening,
2 ing, grading, paving, re-paving, improving, curbing or sewerage
3 any street or alley by the issue and sale of bonds in anticipation of
4 collection of the special assessments hereinbefore authorized, they
5 they shall, in the ordinance making such special assessments, pro-
6 vide that the same shall become due and payable in equal annual
7 installments not to exceed ten in number, and each installment

8 shall bear interest at the rate of six per centum per annum from
9 the date of the final assessment, and there shall be added to and
10 collected with each installment not paid at maturity a penalty of
11 five per centum of the amount of such installment: *Provided,*
12 *however,* that any property owner and any street car or other
13 railway company against whose property an assessment shall have
14 been made shall have the right at any time after such assessment
15 shall have been docketed, or shall have been certified
16 to the person authorized to collect the same at maturity, to anti-
17 cipate any or all of such assessments and to pay the same at the
18 face amount with interest to the time of payment.

Lien for Special Assessment.

Sec. 66. The special assessments, together with the interest
2 and penalties aforesaid to pay for widening, grading, paving, curb-
3 ing, sewerage or any of said improvements, shall be a lien upon
4 the lots or fractional parts of lots or lands, (and in the case of a
5 street car or other railway company upon its tracks and fran-
6 chises, for the distance of said improvement) from the date
7 thereof, and said lien shall have priority over all other liens ex-
8 cept those for taxes due to the state, and shall be on a parity with
9 the taxes and assessments due the city; *provided, however,* such
10 assessments shall, after six months from the date of the acceptance
11 of said work, cease to constitute liens against said property as
12 against creditors of the owners thereof, or purchasers thereof for
13 value without actual notice of such liens, unless within said period
14 of six months a statement of said liens shall be filed for record in
15 the office of the clerk of the county court of Harrison county. Said
16 statement shall be made up and certified before the expiration of
17 said six months period by the city clerk to the clerk of said
18 county court as to all assessments which shall remain unpaid four
19 months after the acceptance of the work, and said statement shall
20 describe the assessments generally as for street improvements,
21 give the names of the property owners assessed, the location of
22 the real estate affected, date of acceptance of the work by the
23 city, and the amount of each assessment; and it shall be a sufficient
24 description of the location of said real estate to describe it as
25 abutting upon the particular street or alley so improved included
26 between the termini of the improvement, or by the description

27 whereby said real estate appears upon the land books of Harrison
28 county. The county clerk shall record said statement in the trust
29 deed books in his office, and index the same in the name of the
30 city and also in the name of each person against whose property
31 said assessments appear therein, and for such recordation the
32 county clerk shall be paid at the same rate for each one hundred
33 words as provided by law for recording deeds of trust.

Docketing and Collecting Assessments.

Sec. 67. The city clerk shall also, so soon as such assessments
2 have been made by the council, enter the same of record in the
3 "municipal assessment docket", and when due make out bills
4 therefor against the property owners assessed, and certify the
5 same for collection to the city collector or other person authorized
6 to collect taxes for the city, who shall thereupon be charged with
7 said accounts. And upon default being made in the payment of
8 any assessment or installment thereof aforesaid, the same shall be
9 immediately reported to the council, and the council shall forth-
10 with refer the same to such officer as it may deem expedient for
11 collection; and payment of said delinquent assessments or in-
12 stallments, with the interest and penalties aforesaid, may be en-
13 forced in all respects as provided for the collection of city taxes,
14 or the lien aforesaid may be enforced by a suit in equity in the
15 name of the city in any court having jurisdiction thereof, and
16 the said delinquent assessments or any installment thereof, may
17 be collected from the person against whom the same were assessed
18 by action at law before any court or a justice of the peace having
19 jurisdiction thereof. In addition to all other remedies for the
20 collection of said delinquent assessments or installments, the city
21 may cause a certified copy of the assessment to be filed in the
22 office of the clerk of the circuit court of Harrison county, West
23 Virginia, and after ten days notice by personal service, or after
24 two weeks publication of a notice in all cases in which personal
25 service cannot be had upon the owner of any lot on which said
26 assessment constitutes a lien, said court shall, on motion of the
27 city of Clarksburg, order the sale of the lots or property on which
28 the assessment or installment constitutes a lien to be made by the
29 city treasurer at the front door of the court house of Harrison
30 county on such terms as to payment as the court in its order may
31 prescribe. The city treasurer shall advertise the time, terms and

32 place of such sale by notice published once a week for two suc-
33 cessive weeks in some newspaper published and of general cir-
34 culation in the city of Clarksburg, and by posting a copy of such
35 notice at the front door of the council chamber for at least two
36 weeks before the day fixed for such sale.

37 The city treasurer shall report any sale made hereunder to said
38 court for confirmation, and upon the confirmation of the sale, the
39 court shall authorize the city treasurer to execute and deliver to
40 the purchaser a deed for the property so sold, which shall divest
41 all the estate and interest therein of the former owner and of
42 all persons claiming under him and of all lienholders against the
43 property, and vest all such estate and interest in the purchaser
44 thereof. Out of the proceeds of any such sale the court shall allow
45 to the city treasurer all costs and expenses incurred in making
46 the sale and reasonable compensation for his services and a fee
47 of five dollars for making the deed to the purchaser, and shall
48 order to be paid out of the proceeds, if sufficient, all unpaid assess-
49 ments or installments of assessments against said property thereto-
50 fore made by the city of Clarksburg, with all accrued interest
51 thereon and costs and expenses of the proceeding, including an at-
52 torney's fee of ten dollars. The residue of the purchase money
53 shall be paid to the former owner of the lot, his personal repre-
54 sentative, heirs or assigns.

55 Before making any sale of real estate in any such proceeding,
56 the city treasurer shall execute a bond in like manner as required
57 by the laws of the state of West Virginia of a special commis-
58 sioner.

Proceeding With Work.

Sec. 68. In any case where the city council has decided to pay
2 for any such improvements out of the funds of the city treasury not
3 otherwise appropriated in anticipation of the collection of special
4 assessments, they shall, in the same or a supplemental ordinance
5 or resolution, direct the city manager to proceed with said work
6 either directly by the purchase of material and employment of
7 labor, or by advertising for bids and proposals for furnishing
8 material and for making said improvements. If the work shall
9 be done on contract the city manager whenever in his judgment
10 it will be to the advantage of the city shall divide the work into
11 allotments or parts and advertise for contracts for the work in

12 such allotments or parts, and for the work as a whole, and the city
13 council and city manager shall, in awarding the contract, adopt
14 the method which shall in their judgment be most advantageous
15 to the city. In any case in which council has decided to procure
16 money for paying for such work or improvement by the issuance
17 and sale of bonds of the city in anticipation of the collection of
18 special assessments as in this act authorized, the city council shall,
19 as soon as practicable after the issuance of such bonds shall have
20 been authorized by a vote of the electors of the city as in this
21 act provided, by resolution direct the city manager to proceed to
22 make said improvements in the same manner as in this section
23 provided for making improvements to be paid for out of moneys
24 in the treasury not otherwise appropriated.

25 The notice for bids or proposals for street improvements or the
26 construction of sewers, shall be published for at least fifteen days
27 in two daily newspapers. Said notice shall state where and how
28 the bids or proposals shall be made; and whether so stated in the
29 notice or not, the city may reject any and all bids for such pro-
30 posed work, before advertising for bids on the work, the council
31 shall approve and adopt plans and specifications therefor, and the
32 advertisement for bids, and the contract awarded thereon, shall
33 refer to such plans and specifications.

Application of Assessments.

Sec. 69. Where provision is made to pay for any work or im-
2 provement out of the funds in the treasury not otherwise appro-
3 priated in anticipation of collection of special assessments, all such
4 assessments and interest and penalties collected thereon from the
5 specially benefited property owners, as well as all sums collected
6 from any street car or other railway company, shall be applied
7 and paid on account of the cost of such improvements (either to
8 the contractor, if it be unpaid, or to the city in re-payment of said
9 appropriation, or such part thereof as may have been paid by it
10 thereon out of other funds in the treasury) until the whole cost
11 or that part of the cost of such improvement and any interest paid
12 thereon, to pay which special assessments were made against
13 specially benefited property, has been paid in full. In any case
14 in which the council shall decide to issue and sell bonds in antici-
15 pation of the collection of said special assessments to pay for an
16 improvement, all such special assessments, interest and penalties

17 collected thereon shall be applied only to the payment of the inter-
18 est and principal of such bonds and to reimbursing the city to the
19 extent of any sum which it may have paid out of other funds upon
20 the interest and principal of such bonds which are to be paid out
21 of special assessments. Funds derived from special assessments
22 shall be paid out only for the purposes in this section authorized
23 and specified.

Sidewalks.

Sec. 70. The city council is hereby authorized and empowered to
2 cause to be put down a suitable sidewalk and curb of brick, stone or
3 other material along and for the footways and sidewalks of the pub-
4 lic street and alleys of said city, and to order and cause the grad-
5 ing, laying or relaying or repair of sidewalks and gutters, of such
6 material and width as the council may determine; and to require
7 the owners or occupiers of the lot or lots or parts of lots facing
8 upon said streets and alleys to keep such sidewalks clean and in
9 good repair. The owners or occupiers of the lots or fractional
10 parts of lots abutting upon such streets and alleys shall not grade
11 or lay any such sidewalk, curb or gutter, unless specially requested
12 to do so by resolution adopted by the council, and then only of the
13 kind prescribed by the council; but the city may lay such sidewalks,
14 curb or gutter and grade therefor, or may let said work by contract,
15 and in either case the total cost of said work shall be charged upon
16 and assessed against the lots or fractional parts of lots abutting
17 upon the streets and alleys so improved, or specially benefited by
18 said work, in proportion to the number of feet frontage thereon
19 of each such lot or part of lot, and shall be and remain a lien
20 thereon from the date of the acceptance of the work by the city,
21 and said lien shall have priority over all other liens except those
22 for taxes due to the state, and shall be on a parity with the taxes
23 and assessments due the city, and shall bear interest from the
24 date of acceptance of the work by the city, or from the completion
25 thereof when done by the city, and shall become due and payable
26 when declared final by the council; and to each such assessment re-
27 maining unpaid thirty days after maturity there shall be added and
28 collected by the city a penalty of five per centum of the amount of
29 such assessment in addition to the interest. The amount so
30 assessed against any lot, or fractional part of lot, together with
31 the interest and penalty aforesaid, shall also be a debt against the

owner of such lot or part of lot. Immediately upon completion of the work, if done by the city, or upon acceptance of the work if done by contract, the council shall cause the city clerk to serve a notice upon the owners of each lot or fractional part of lots over which such sidewalks are graded, paved, curbed or laid, shall describe such lot or part of lot with reasonable certainty sufficient to identify the same, and shall also state the number of feet over each lot or part of lot so graded, curbed or laid with sidewalk, together with the amount assessed against each owner; which notice shall be served as provided for the service of notice of street assessments in this act and shall cite all said owners to appear before the council at a regular meeting to be held within fifteen days following the service of publication thereof and show cause, if any they can, why such assessments should not become final. Protests against said assessments shall be heard and determined and said assessments shall become final and be recorded by the city clerk, certified for collection, and the collection thereof enforced against the property assessed and against the owner thereof, and a certificate of said assessments certified to the clerk of the county court for recordation, and recorded in all respects in the same manner and with the same legal effect as provided in the case of assessments for street paving or other local improvements in this act. And all of the assessments, interest and penalties thereon so collected from the abutting lot owners on account of the grading and curbing and laying of said sidewalks shall be applied to the cost of making the improvement for which said assessments were laid, and to no other purpose.

Supplementary Assessments and Rebates.

Sec. 71. If in any case any special assessment shall be illegal or void, either in whole or in part, a new assessment may be made in the same manner as nearly as may be as other special assessments are authorized by this act to be made to pay for the improvements, the former assessment for which was illegal or void. Upon the completion of any improvement the city manager shall rebate to the then owner of the property which shall have been assessed to pay for such improvement any surplus or excess remaining unexpended for the purpose for which such assessment was made. In the event of there being a deficit in the fund provided for the making of any such improvement, the city manager shall report to

12 the council a supplementary assessment within the limitations in
13 this act provided, which supplementary assessment shall be made
14 by ordinance of the council and certified and collected in the man-
15 ner provided in the original assessment for the collection of the
16 same.

Limitation of Assessments.

Sec. 72. No assessment herein authorized against or upon any
2 property for any local improvement shall, in the first instance
3 exceed in amount twenty-five per centum of the value of such
4 property after the improvement is completed. And all assess-
5 ments for local improvements which may be made against any
6 property during the fifteen years next ensuing after the first
7 assessment shall have been made, including the first assessment,
8 shall not exceed at any time in the aggregate one-third of the
9 value of such property. And during any succeeding period of
10 fifteen years the total assessments against any property for im-
11 provements shall not exceed in the aggregate one-third of the
12 value of the property together with the improvements.

Release of Liens.

Sec. 73. Whenever any assessments for sidewalks, street
2 paving, grading, sewerage or other improvements hereinabove
3 provided for shall have been paid in full, the city treasurer shall
4 execute on behalf of the city and deliver to the party paying the
5 same a proper release of the lien of such assessment, which re-
6 lease shall be substantially in the form prescribed by section two
7 of chapter seventy-six of the code of one thousand nine hundred
and thirteen of this state, (serial section number three thousand eight
9 hundred and fifty-nine) for the release of the lien of judgments
10 and decrees.

Remedies Saved.

Sec. 74. The remedies herein provided for the enforcement
2 of any power, right or authority by this charter conferred upon
3 said city of Clarksburg shall not be exclusive or in derogation of
4 any other right or remedy which it does or shall possess under
5 any law or under the constitution of the state to enforce in any
6 court of law or equity any such power, right or authority.

Issuing Bonds.

Sec. 75. If and when the city council shall have decided to
2 carry on any work of improvement and shall have assessed all or
3 any part of the cost thereof against property specially benefited,
4 and provided that such assessments shall be paid in equal annual
5 installments, it is hereby authorized to issue and sell its bonds
6 in order to provide funds for widening, grading, paving, curbing,
7 sewerage, or otherwise improving the streets and alleys of the city
8 in anticipation of the collection of the special assessments made
9 against the property which will be specially benefited by such
10 work. The bonds shall be for such an amount as will suffice to
11 pay the entire cost of such improvements, or the entire amount
12 which is to be assessed against property specially benefited, in-
13 cluding any amount which a street or other railway company
14 occupying any of the streets with its tracks shall be required to
15 pay. Such bonds shall be payable in equal annual installments
16 and shall bear interest at not to exceed the rate of six per centum
17 per annum, payable annually; the number of annual installments
18 shall be the same as the number of installments in which the
19 special assessments against property specially benefited have been
20 ordered to be paid, and the bonds maturing each year shall be ap-
21 proximately equal in amount to the aggregate amount of the in-
22 stallments becoming payable on assessments each year. In the
23 issuance and sale of such bonds the city shall be governed by all
24 restrictions and limitations of the constitution of this state, and
25 in so far as not in conflict with the provisions of this act, by the
26 restrictions and limitations of the laws of the state, with respect
27 to the issuance and sale of bonds. All assessments with the inter-
28 est thereon, and all penalties collected thereon, in anticipation of
29 the collection of which bonds shall have been issued as herein pro-
30 vided, shall be applied only to the payment of the interest on the
31 bonds, and the principal thereof, as they severally mature, and to
32 that end they shall be paid to the city treasurer to be credited
33 to the sinking fund of the city and shall be invested to the best
34 advantage of the city in the manner provided by law, by the
35 sinking fund trustees. The city shall not, by the sale of bonds
36 or otherwise, become indebted in amounts in the aggregate to
37 exceed five per centum of the value of the taxable property in the
38 city. The city shall not make, issue and sell its bonds without at
39 the same time providing for the levying of a certain annual tax

40 sufficient to pay annually the interest on such bonds and the prin-
41 cipal thereof within and not exceeding the time fixed for the
42 maturing of said bonds, if said bonds are issued against assess-
43 ments for local improvements to be liquidated by such assessments;
44 and within not to exceed thirty-four years if issued for any other
45 purpose. All of the assessments, interest and penalties collected
46 under the provisions of this section shall be applied annually to the
47 payment of the interest of any debt created for a local improvement
• 48 and upon the principal within and not exceeding the time in
49 which the same shall mature, and in the event that the assessments,
50 interest and penalties so collected shall not amount to a sum suf-
51 ficient to pay such annual interest and discharge the bonds at
52 maturity, then only shall the council provide for the collection of
53 so much of the authorized levy as will pay the residue of the inter-
54 est on such bonds and the residue of the principal upon the
55 maturity thereof.

Bond Election.

Sec. 76. No bonds shall be issued under the provisions of this act
2 until and unless the question of issuing such bonds shall have first
3 been submitted to the vote of the people of the city and shall have
4 receive three-fifths of all of the votes cast at said election for or
5 against the same. When the council shall have made provision for
6 paying for any work of improvement authorized in this act out of
7 funds derived from the sale of bonds in anticipation of the collec-
8 tion of special assessments against property specially benefited and
9 shall have made such assessments in the manner provided in this
10 act, it shall cause to be held a special election, at which shall be
11 submitted to the vote of the people the question of issuing said
12 bonds. The ordinance providing for the election need not specify
13 in detail the location of the improvements contemplated or the cost
14 thereof, or the amount of the special assessments made, and not-
15 withstanding the provisions of sections two, three and six of
16 chapter forty-seven-a of the Code of 1916, it shall be a suf-
17 ficient description of the purposes for which said election is to
18 be held if the ordinance directing the same shall recite that it
19 is to authorize the council to issue bonds for the purpose of widen-
20 ing, grading, paving, re-paving, curbing, sewerage, or otherwise
21 improving the streets and alleys of the city.

22 Provision may be made in the same ordinance authorizing the
23 issuing of bonds as in this section above provided, or the issuing

24 of bonds to provide funds for any other municipal improvement.
25 Any bonds authorized to be issued to raise funds for improving,
26 extending, adding to, or replacing the water works plant shall be
27 issued and delivered to the water board and by said board shall be
28 sold as provided by law, and the proceeds of any bonds issued
29 under the authority of this act shall be expended only for the
30 purposes for which the creation of the indebtedness and issuing of
31 said bonds were authorized.

32 The provisions of chapter forty-seven-a of the code, edition
33 1916, concerning bond elections, together with any amendments
34 thereof, shall, so far as they are not in conflict with the provisions
35 of this section, apply to and control all bond elections called or
36 held under the provisions of this act.

37 Any water works bonds as in this act described and defined
38 which shall hereafter be issued shall be signed by the city of
39 Clarksburg by the president and secretary of the water board, and
40 the corporate seal of the city shall be affixed unto such bonds by
41 the city clerk. All other bonds which shall be issued by the city
42 for any purpose shall be signed by the city manager and the city
43 clerk and the corporate seal of the city shall be affixed to such
44 bonds by the city clerk.

Sec. 77. Whenever the city council shall have decided to carry
2 on any work of improvements upon an street or alley in the city

Assessment Certificates.

3 and shall have assessed the property that will be specially bene-
4 fited by the construction of the work and made provision that
5 the assessment shall be paid in annual installments as in this act
6 authorized, they may, in order to procure funds to pay for such
7 work, issue and sell to the contractor or persons doing the work,
8 or to any other persons, assessment certificates for the amount
9 of the several assessments against the respective property owners.
10 Such certificates shall bear interest at a rate not to exceed six
11 per centum per annum, payable annually, and shall mature and
12 become payable in the same manner and at the same times that
13 the assessments are payable. The city in negotiating and selling
14 such certificates shall not be held liable as endorser or guarantor
15 or in any other way for the payment thereof, except upon a resolu-
16 tion entered of record by the council assuming such liability be-

17 fore such sale. Assessment certificates shall be paid by the
18 owners of the lots or land assessed for the cost of such improve-
19 ments. The amount specified in each assessment certificate shall
20 be a lien as in this act provided in the hands of the holder thereof
21 upon the lands, lot or part of lot so assessed, and shall also be a
22 debt against the owner of such real estate and shall draw interest
23 at the rate and from the date specified in the certificate. The pay-
24 ment of the sums represented by assessment certificates may be
25 enforced by the holder in his own name, or in the name of the
26 city, in the manner provided in this act for the collection of assess-
27 ments, and as provided herein or by general laws for the enforce-
28 ment of liens.

29 All assessment certificates which may be issued under the pro-
30 visions of this act shall be made payable at the office of the city
31 treasurer who shall receive payment thereof when due if tendered,
32 and the interest thereon from the date of such payments shall
33 cease. The treasurer shall keep a separate and special account of
34 all moneys received by him upon assessment certificates and shall
35 hold the same in trust for the owner who thereafter shall de-
36 liver the assessment certificates to him for cancellation if paid in
37 full, or to have credited thereon the amount paid if not paid in
38 full; but the owner of assessment certificates shall not be entitled
39 to interest on the sums represented by the same after the date
40 of payment thereof to the treasurer. If and when the whole
41 amount of any assessment certificate shall have been paid to the
42 treasurer, or the treasurer shall have knowledge that the same
43 has been paid in full to the owner, he shall, when required by
44 the land-owner, execute a release of the lien of assessment and
45 certificates in the manner as in this act provided for releasing
46 liens of assessments for which no certificates may have been issued.
47 If the city shall have no treasurer, any other officer designated by
48 the council by resolution or ordinance shall discharge the duties
49 required of the treasurer in this act.

50 Assessment certificates shall be in such form and of such tenor
51 as the council shall by resolution provide and they shall have at-
52 tached thereto interest coupons for the annual interest thereon.
53 At any time before a sale of the assessment certificates the
54 property owner shall have the right, if he elects so to do, to antici-
55 pate and pay the full amount of the assessment with interest
56 to date of payment, and thereupon the assessment certificates

57 against his property shall be cancelled and the lien of the assess-
58 ment thereon released as in the manner provided in this act.

59 The proportion of the cost of any such improvement to be paid
60 by any street car or other railway company shall be due and pay-
61 able and shall be paid upon the completion of the work and if not
62 paid when due the same shall be collected with interest thereon at
63 the rate of six per centum per annum from the date payable, and
64 in addition thereto a penalty of five per centum of the amount
65 payable shall be collected.

Publication.

Sec. 78. All ordinances, resolutions and notices of every
2 kind, the publication of which is required by any provision of
3 this act, shall be published for the period of time in each par-
4 ticular instance specified, but in all cases in which the time the
5 publication is to run is not specially provided, such publication
6 shall be once a week for two consecutive weeks. In all cases the
7 manner of publication shall be by causing the same to be inserted
8 in the two principal newspapers published in the city of Clarks-
9 burg of opposite political opinions and affiliations; if the owner
10 of either of such newspapers will not publish such notices in any
11 instance at the rate herein provided to be paid, or if only one
12 such newspaper for any period be published in the city of Clarks-
13 burg, then, by inserting such notice in the paper that will publish
14 the same at the rate hereinafter provided, or in any newspaper
15 published in the city of Clarksburg. If no newspaper published
16 in said city will in any instance publish any notice required, at
17 the rate of compensation hereinafter provided, then and in every
18 such case it shall be sufficient publication thereof to post a copy
19 of such notice at the front door of the building in which the
20 city council holds its meetings, for a period of two weeks. Every
21 such publication or posting shall be held and deemed to be
22 equivalent to personal service in every case. The certificate of
23 the printer or manager of the paper publishing any notice herein
24 required, or the affidavit of the party posting any notice that
25 may be served by posting, shall be accepted as *prima facie* evi-
26 dence of the publication of the notice. Such certificate and
27 affidavit shall be filed with the city clerk and preserved as a part
28 of the records of his office.

29 The rates charged for the publication of any notice herein
30 required to be given shall not exceed the rate prescribed by the
31 laws of the state of West Virginia for the publication of notices
32 required to be published in suits in chancery in the circuit courts
33 of the state.

34 It shall not be necessary to publish any resolution, order,
35 assessment, or ordinance providing for carrying on any work of
36 improvement of any street, alley or sidewalk, in any case wherein
37 provision is made in this act for serving notice upon the parties to
38 be charged with the cost of, or directly interested in such im-
39 provement.

Work Contracted For in Adamston.

Sec. 79. The city council elected under this act shall as
2 speedily as possible complete the work of paving a certain street
3 therein which was commenced by the town of Adamston now in-
4 cluded within the city of Clarksburg under an ordinance author-
5 izing the said town of Adamston to assess the cost of said pave-
6 ment against the properties to be specially benefited thereby and
7 for which certain bonds were issued in anticipation of the collec-
8 tion of such assessments. The assessments shall be made and col-
9 lected as in said ordinance provided for the entire cost of improv-
10 ing said street, and the moneys derived therefrom shall be appli-
11 cable to the payment of the bonds already issued for procuring
12 money to carry on said work and to pay any cost of said work in
13 addition to the amount paid by the proceeds derived from said
14 bonds: *Provided, however,* that no interest on the bonds so issued
15 or moneys appropriated to pay for said work shall be included in
16 the cost thereof or assessed against the owners of the properties
17 specially benefited.

Work Contracted by Clarksburg.

Sec. 80. The city of Clarksburg heretofore provided for im-
2 proving certain streets therein and for paying for the work of
3 such improvements out of the proceeds of bonds issued in antici-
4 pation of the collection of special benefits against the properties
5 to be specially benefited by the work and issued and sold bonds
6 for said purpose, and has contracted for a part of the work
7 authorized by said ordinance, but has not yet made assessments for
8 the cost thereof against the specially benefited properties. The

9 council taking office under this act shall proceed with and complete
10 the work already contracted for authorized by the ordinance last
11 referred to and shall as soon as practicable assess against the prop-
12 erties to be specially benefited by such work the cost thereof. In
13 the time and manner of making such assessments, the apportion-
14 ment of the cost of the work among different classes of properties,
15 the determination of the properties to be assessed with the cost of
16 the work, the collection of the assessments and the application of
17 the moneys derived therefrom, the council shall conform in so far
18 as practicable to the provisions of this act.

Debt Limitation.

Sec. 81. The city of Clarksburg herein created shall not
2 become indebted in any manner or for any purpose to an
3 amount, including existing indebtedness, in the aggregate
4 exceeding five per centum of the value of the taxable
5 property in said city as ascertained by the last as-
6 sessment for state and county taxes made previous to the in-
7 curring of any indebtedness. For the purpose of this act
8 the existing indebtedness of the city shall be determined as
9 follows, either,

10 (a) By including all bonds and obligations of the city of every
11 character whatsoever and ascertaining the total amount thereof.
12 except that bonds issued in anticipation of the collection of special
13 assessments representing the cost of paving or other permanent
14 improvements of streets and alleys, or the construction of sewers,
15 and which are to be paid and discharged out of the assessments
16 made against the specially benefited properties, or by the owners
17 thereof, shall not be included. From the total so ascertained
18 there shall be deducted the amount in any sinking fund or sinking
19 funds, in cash or invested as provided by law, created and applica-
20 ble for the payment of any of the bonds or obligations included in
21 such total, as well as the amount of any current revenues or
22 assets of the city available for the payment of any such obliga-
23 tions, or,

24 (b) By ascertaining the total of all bonds and obligations of
25 the city of every character whatsoever, including the bonds issued
26 in anticipation of the collection of special assessments representing
27 the cost of paving or other permanent improvements of streets
28 and alleys or the construction of sewers, which are to be paid out of
29 the assessments made against the specially benefited properties, or

30 by the owners thereof, and deducting from the total sum so ascer-
31 tained, the amount of all special assessments made against prop-
32 erty specially benefited for paying and discharging the said
33 bonds, the amount of current revenues of the city available for
34 the payment of its obligations and the amount in any sinking
35 funds, in cash or invested as provided by law, created and appli-
36 cable for the payment of any of the bonds or obligations included
37 in such total.

38 (c) Or the existing indebtedness of the city may be ascer-
39 tained in any other manner provided by law.

Emergency Measures.

Sec. 82. Emergency measures may be passed at the same meet-
2 ing of council at which they are introduced. An emergency
3 measure within the meaning of this act is an ordinance or reso-
4 lution providing for the immediate preservation of public peace,
5 property, health or the safety of the community, or for the usual
6 daily operation of a municipal department, in which the emergency
7 is set forth in the preamble thereof. Ordinances and resolutions
8 providing for improving streets and alleys, making assessments,
9 appropriating moneys, and all matters incident to such improve-
10 ments may be passed as emergency measures. No ordinance or
11 measure making a grant, renewal or extension of a franchise or
12 other special privilege, or regulating the rate to be charged for its
13 service by a public utility, or creating any office or employment,
14 shall ever be passed as an emergency measure.

Removal of Elective Officers.

Sec. 83. Any elective officer may be removed at any time by
2 the circuit court of Harrison county, West Virginia, for any
3 ground or cause for which a member of the county court of the
4 county or other county officer may be removed. The proceeding
5 for the removal of an elective officer shall conform in all respects
6 with the proceeding to remove a county officer. On the hearing
7 of any such proceeding no person called as a witness shall be
8 excused from answering any question or giving any testimony
9 because the answer or testimony might incriminate or tend to
10 incriminate him, or render him liable to prosecution for an of-
11 fense. But no witness called to testify in any such proceeding
12 shall thereafter be prosecuted in any court in the state for any

13 act concerning which he is required to testify or disclose by his
14 testimony. Any person who shall be removed from office under
15 the provisions of this section shall not thereafter hold any office
16 or employment in the city of Clarksburg.

Succeeding to Duties of Officers.

Sec. 84. The duties in this act or by any other law provided
2 to be discharged by any officer elected or appointed under the pro-
3 visions of this act shall be discharged and performed by any officer
4 under whatever title who shall hereafter succeed any officer or
5 office herein created and be charged with the performance of the
6 duties and obligations entrusted to and imposed upon the holder
7 of any office herein created.

Not to Be Published in Code of Laws.

Sec. 85. There shall not be included or published in the code of
2 municipal laws any ordinance or resolution providing for any
3 public improvement, making assessments, appropriating moneys, or
4 anything incident thereto, or any traffic ordinances or regulations
5 or any other ordinance of a temporary character and not of general
6 interest, but all such ordinances shall be recorded in the ordinance
7 books as herein provided, and all traffic ordinances and regulations
8 shall be published in pamphlet form convenient for general distri-
9 bution and furnished to any person requesting a copy of the same.

Act Construed.

Sec. 86. All provisions contained in this act in respect to
2 making improvements shall be liberally construed by the council
3 and by the courts. Immaterial and technical objections shall be
4 disregarded; all special benefits ascertained and not contested be-
5 fore the board of assessment review within ten days from the
6 ascertainment thereof shall be deemed conclusive, and in any con-
7 tested case the ascertainment by said board of special benefits shall
8 be conclusive. The purpose of the provisions of the act referred
9 to in this section is to enable the public to make needed and essen-
10 tial public improvements and in all cases where feasible the act
11 shall be construed in furtherance and aid of that general purpose.

Sec. 87. The act of the legislature, chapter eighty-nine, regular
2 session 1919, is hereby repealed; the act of the legislature, chapter
3 one hundred and twenty-three, regular session 1917, except section

4 twenty-five thereof, is hereby repealed. All other acts and parts
5 of acts in conflict with the provisions of this act are, for the pur-
6 poses of this act only, repealed.

House Bill No. 332

(House Bill No. 332—Mr. Middelburg, by request.)

AN ACT to incorporate the city of Dunbar, in Kanawha county, West
Virginia, fixing its corporate limits and prescribing and defining
the powers, rights and duties of said city of Dunbar, and of the
officers and citizens of same.

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of so much of the county of
2 Kanawha as is within the bounds prescribed by section two of this
3 act, and their successors, shall be and remain, and they are hereby
4 made and constituted a body politic and corporate by the name of
5 "The City of Dunbar," and as such shall have perpetual succession
6 and a common seal, and by that name shall sue and be sued, plead
7 and be impleaded, purchase, lease and hold real estate and personal
8 property, and do all other things necessary for the purposes of said
9 corporation.

Corporate Limits.

Sec. 2. The corporate limits of said city shall be as follows:
2 Beginning at a stone monument on the south side of county road
3 at stop twelve on the Dunbar car line; thence to top of ridge 729
4 feet to a stake; thence west 2,200 feet to a black oak tree; thence
5 80 degrees, 32 minutes west to a black oak tree on the west point of
6 ridge; thence across a hollow, north 60 degrees, 19 minutes west,
7 250 feet to a stake on Reservoir Hill; thence north 82 degrees 43
8 minutes west 376 feet to a stake 19 feet north of the northwest
9 corner of reservoir property; thence north 42 degrees 12 minutes
10 west, 628 feet to the northwest corner of J. A. Munday property;
11 thence north 74 degrees, 35 minutes west, 689 feet to a stake on
12 point of ridge; thence north 52 degrees, 04 minutes west, 170 feet
13 to a beech tree; thence across hollow at head of Smith street, north
14 51 degrees, 55 minutes west, 930 feet to a black oak tree on the
15 edge of plateau; thence along edge of plateau, north 57 degrees,

16 37 minutes west, 549 feet to an iron pipe on the west point of
17 plateau, thence north 29 degrees, 30 minutes west, 624
18 feet to a stake on the east side of Dutch hollow; thence
19 north 48 degrees, 25 minutes, west 478 feet to a sycamore tree on
20 the east side of creek in Dutch hollow; thence from sycamore tree
21 in Dutch hollow west to top of hill 450 feet to an iron pipe; thence
22 south 373 feet to a stake on the south side of county road; thence
23 along south side of county road north 35 degrees, 06 minutes, west
24 93 feet; thence north 41 degrees, 10 minutes west 211 feet; thence
25 north 29 degrees, 5 minutes west 52 feet to east line of lower
26 Guthrie tract; thence with the same south 34 degrees, no min-
27 utes west 3490 feet to Kanawha river; thence following the low
28 water mark of Kanawha river in an easterly direction 11.840
29 feet to a stake; thence, northeast 420 feet to a place of beginning.
30 All measurements included in the above description are surface
31 measurements.

Voting Precincts.

Sec. 3. The said city shall be divided into such voting precincts
2 as the council thereof may by ordinance prescribe.

Municipal Authorities.

Sec. 4. The municipal authorities of the city of Dunbar shall
2 consist of a mayor, city treasurer, and six councilmen. who
3 shall be elected by the qualified voters of such city, and such officers
4 shall, for the assessment year preceding their respective elections as
5 hereinafter provided, have been assessed with and paid taxes in
6 the city of Dunbar upon a valuation of at least five hundred
7 (\$500.00) dollars worth of real estate or personal property therein.
8 and any person elected to any one of such offices who has not been
9 assessed with and paid taxes on such amount of property shall not
10 qualify or enter upon the performance of the duties thereof, but
11 such office shall thereby become vacant and shall be filled by a
12 qualified person, as provided herein for other vacancies.

13 In addition to the municipal authorities mentioned in this sec-
14 tion above, the city may have a police judge, manager, city clerk.
15 city auditor, health commissioner, building inspector, lockup
16 keeper, humane officer or officers, and such number of policemen as
17 council by ordinance or resolution may direct.

18 The officers named in this section, other than the mayor, treas-
19 urer, and councilmen, may be appointed by the mayor, with the
20 consent of council, but none of such officers shall be appointed until
21 council shall, by a majority of the full membership thereof, author-
22 ize the filling of such office. All of the officers named in this and
23 the preceding section shall be paid proper salaries, which shall be
24 fixed by the council, except as herein otherwise provided, and such
25 salaries shall be within the limits provided for by this act.

Corporate Powers.

Sec. 5. All the corporate power of said city shall be vested in
2 and exercised by council or under its authority, except as other-
3 wise provided in this act.
4 The council of said city shall have, and is hereby granted power
5 to have city surveyed, to lay out, open, vacate, straighten, broaden,
6 change grade of, grade, re-grade, curb, widen, narrow, repair,
7 pave and re-pave streets, alleys, roads, squares, plots, sidewalks
8 and gutters for public use, and to alter, improve, embellish, orna-
9 ment and light the same, and to construct and maintain public
10 sewers and laterals, and shall, in all cases, have power and author-
11 ity to assess upon and collect from the property benefited thereby
12 such part of the expense thereof as shall be fixed by ordinance,
13 except as hereinafter provided; to have control of all streets,
14 avenues, roads, alleys and grounds for public use in said city,
15 and to regulate the use thereof and driving thereon, and to have
16 the same kept free from obstructions, pollutions or litter on or
17 over them; to have the right to control all bridges within said
18 city, and the traffic thereover; to change the name of any street,
19 avenue or road within said city, and to regulate and cause the
20 numbering and re-numbering of houses on any street, avenue or
21 road therein; to regulate the naming of streets, avenues and pub-
22 lic places; to regulate and determine the width of streets, side-
23 walks, roads and alleys; to order and direct the curbing, re-curb-
24 ing, paving, repaving and repairing of sidewalks and footways for
25 public use in said city to be done and kept clean and in good order
26 by the owners of adjacent property; to prohibit and punish the
27 abuse of animals; to restrain and punish vagrants, mendicants,
28 beggars, tramps, prostitutes, drunken or disorderly persons within
29 the city, and to provide for their arrest and manner of punish-
30 ment; to prohibit and punish by fine the bringing into the city by

31 steamboat, railroad or other carriers, of paupers, dangerous or
32 objectionable characters or persons afflicted with contagious dis-
33 eases; to control and suppress disorderly houses of prostitution
34 or ill fame, houses of assignation, and gaming houses or any
35 part thereof; to punish those engaged in gaming and to sup-
36 press all gaming or gambling houses, and all places where
37 gambling or betting is in any way carried on or permitted,
38 and to punish all persons in any way connected therewith; to
39 prohibit within the city, or within one-half mile thereof, slaugh-
40 ter houses, soap or glue factories, and houses and places of like
41 kind, and any other thing or business dangerous, unwholesome,
42 unhealthy, offensive, indecent or dangerous to life, health, peace
43 or property; to provide for the entry into and the examination of
44 all dwellings, lots, enclosures, buildings and structures, cars,
45 boats and vehicles of every description, and to ascertain their con-
46 ditions for health, cleanliness or safety; to regulate the building
47 and maintenance of party walls, partition fences or lanes, fire
48 walls, fire places, chimneys, boilers, smoke stacks and stove pipes;
49 to provide for and regulate the safe construction, inspection and
50 repairs of all public and private buildings, bridges, basements,
51 culverts, sewers or other buildings or structures of any descrip-
52 tion; to take down and remove, or make safe and secure, any and
53 all buildings, walls, structures or super-structures at the expense
54 of the owners thereof, that are or may become dangerous, or to
55 require the owners or their agents to take down and remove
56 them or put them in safe and sound condition at their own ex-
57 pense; to regulate, restrain or prohibit the erection of wooden or
58 other buildings within the city; to regulate the height, construc-
59 tion and inspection of all new buildings hereafter erected, and the
60 alteration and repair of any buildings already erected or here-
61 after erected in said city, and to require permits to be obtained
62 for such buildings and structures and plans and specifications
63 thereof to be first submitted to the building inspector; and to
64 regulate the limit within which it shall be lawful to erect any
65 steps, porticos, bay windows, show windows, awnings, signs,
66 columns, piers or other projection or structural ornaments of any
67 kind for the houses or buildings fronting on any street of said
68 city; to establish fire limits and to provide the kind of buildings
69 and structures that may be erected therein, and to enforce all
70 needful rules and regulations to guard against fire and danger

71 therefrom; to require, regulate and control the construction of
72 fire escapes for any building or other structures in said city, to
73 control the opening and construction of ditches, drains, sewers,
74 cess-pools and gutters, and to deepen, widen and clear the same
75 of stagnant water or filth, and to prevent obstruction therein, and
76 to fill, close or abolish the same and to determine at whose ex-
77 pense the same shall be done; and to build and maintain fire
78 station houses, crematories, jails, lockups, and other buildings,
79 police stations and police courts, and to regulate the manage-
80 ment thereof; to acquire, establish, lay off, appropriate, regulate,
81 maintain and control public grounds, squares, parks, hospitals,
82 market houses, city buildings, libraries, and other educational
83 or charitable institutions, within the city limits; and
84 when the council determines that any real estate in
85 the city is necessary to be acquired by said city for
86 any such purpose, or for any public purpose, or is necessary in
87 the exercise of its powers herein granted, the power of eminent
88 domain is hereby conferred upon said city, and it shall have the
89 right to institute condemnation proceedings against the owner
90 thereof, in the same manner, to the same extent, and upon the
91 same conditions as such power is conferred upon public corpora-
92 tions by chapter forty-two of the code of West Vir-
93 ginia of the edition of one thousand nine hundred and
94 thirteen, and is now or may be hereafter amended; to
95 purchase, sell, lease or contract for and take care of
96 all public buildings, structures, and real estate deemed
97 proper for the use of such city; and for the protection of
98 the public to cause the removal of unsafe walls, structures or
99 buildings, and the filling of excavations; to prevent injury or
100 annoyance to the business of individuals from anything danger-
101 ous, offensive or unwholesome; to abate or cause to be abated all
102 nuisances and to that end and thereabout to summon witnesses
103 and hear testimony; to regulate or prohibit the keeping of gun-
104 powder and other combustible or dangerous articles; to regulate,
105 restrain or prohibit the use of firecrackers or other explosive
106 fireworks, and all noises or performances which may be danger-
107 ous, indecent or annoying to persons or tend to frighten horses
108 or other animals; to provide and maintain proper places for
109 the burial of the dead, in or out of the city, and to regulate
110 interments therein on such terms and conditions as to price

111 and otherwise as may be determined; to provide for shade and
111-a ornamental trees, shrubbery, grass, flowers and other
112 ornamentation, and the protection of the same; to provide for
113 the poor of the city; to make suitable and proper regulations in
114 regard to the use of the streets, public places, sidewalks, and
115 alleys by street cars, foot passengers, animals, vehicles, motors,
116 automobiles, traction engines, railroad engines and cars, and to
117 regulate the running and operation of the same so as to prevent
118 obstruction thereon, encroachment thereto, injury, inconvenience
119 or annoyance to the public; to prohibit prize fighting, cock and
120 dog fighting; to license, tax, regulate or prohibit theatres,
121 moving pictures, circuses and exhibitions of showmen and shows
122 of any kind, and the exhibition of natural or artificial curiosities,
123 carnivals, menageries and musical exhibitions and performances,
124 and other things or business on which the state does or may
125 exact a license tax; to organize and maintain fire companies and
126 departments and to provide necessary apparatus, engines and
127 implements for the same, and to regulate all matters pertaining
128 to the prevention and extinguishment of fires; to make proper
129 regulations for guarding against danger and damage from fires,
130 water and other elements; to regulate and control the kind and
131 manner of plumbing and electrical wiring, air ships, balloons,
132 wireless stations, and other appliances for the protection of the
133 health and safety of said city; to levy taxes on persons, property
134 and licenses; to license and tax dogs and other animals, and to
135 regulate, restrain and prohibit them and all other animals and
136 fowls running at large; to provide revenue for the city and ap-
137 propriate the same to its expenses to adopt rules for the trans-
138 action of business of its own regulation and government; to
139 promote the general welfare of the city, and to protect the per-
140 sons and property of citizens therein; to regulate and provide for
141 the weighing of produce and other articles sold in said city and
142 to regulate the transportation thereof and other things, through
143 the streets, alleys and public places; to have the right to grant,
144 refuse or revoke any and all licenses for the carrying on of any
145 business within said city on which the state exacts a license tax;
146 to establish and regulate markets and to prescribe the time for
147 holding the same and what shall be sold in such market, and to
148 let stalls or apartments and regulate the same; to acquire and
149 hold property for market purposes; to regulate the placing of

150 signs, bill boards, posters and advertising, on or over the streets,
151 alleys, sidewalks, and public grounds of said city; to preserve
152 and protect the peace, order and safety and health of the city
153 and its inhabitants, including the right to regulate the sale and
154 use of cocaine, morphine, opium and poisonous or dangerous
155 drugs; to appoint and fix the place of holding city elections; to
156 erect, own, lease, authorize or prohibit the erection of gas
157 works, electric light works, or water works, ferry boats, in or
158 near the city, and to operate the same, and to sell the product or
159 services thereof and to do any and all things necessary and inci-
160 dental to the conduct of such business; to provide for the purity
161 of water, milk, meats and provisions offered for sale in said city,
162 and to that end provide for a system of inspecting the same and
163 making and enforcing rules for the regulation of their sale, and
164 to prohibit the sale of any unwholesome or tainted milk, meats,
165 fish, fruit, vegetables, or the sale of milk, containing water or
166 other things not constituting a part of pure milk; to provide for
167 inspecting dairies and slaughter houses, whether in or outside
168 of the city, where the milk and meat therefrom are offered for
169 sale within said city, and to prohibit the sale of any articles
170 deemed unwholesome, and to condemn the same or destroy or
171 abate it as a nuisance; to provide for the regulation of public
172 procession so as to prevent interference with public traffic, and
173 to promote the good order of the city; to prescribe and enforce
174 ordinances and rules for the purpose of protecting the health,
175 property, lives, decency, morality, cleanliness and good order of
176 the city and its inhabitants, and to protect places of divine
177 worship in and about the premises where held, and to punish
178 violations of all ordinances, if the offense under and against the
179 same shall also constitute offense under the laws of the state of
180 West Virginia or the common law; to provide for the employment
181 and safekeeping of persons who may be committed in default of
182 the payment of fines, penalties, or costs under this act, who are
183 otherwise unable to discharge the same, by putting them to
184 work for the benefit of the city upon the streets or other places
185 in or out of the city provided by said city, and to use such
186 means to prevent their escape while at work as the council may
187 deem expedient; and the council may fix a reasonable rate per
188 day as wages to be allowed such person until the fine and costs
189 against him are thereby discharged; to compel the attendance at

190 public meetings of the members of the council; to have and
191 exercise such additional rights, privileges and powers as are
192 granted to municipalities by chapter forty-seven of the code of
193 West Virginia, as amended.

194-198 And the council shall have the right to establish, construct
199 and maintain public markets, landings, ferries, wharves and docks
200 on any ground which does or shall belong to said city, or which
201 it shall acquire, by purchase or otherwise, and to sell, lease,
202 repair, alter or remove any public markets, landings, ferries,
203 wharves, dikes, buildings or docks, which have been or shall be
204 so constructed, to levy and collect reasonable duty on vessels and
205 other craft coming to or using said landings, ferries, wharves,
206 dikes, docks, and buildings, and to preserve and protect the
207 peace and good order at the same, and regulate the manner in
208 which they shall be used; and to have the sole right, under state
209 laws and in the same manner as now control county courts; to
210 establish, construct, maintain, regulate and control all such
211 wharves, docks, ferries and landings within the corporate limits
212 of said city.

213 To carry into effect these enumerated powers and all other
214 powers conferred upon said city expressly or by implication in
215 this and other acts of the legislature, the council of said city
216 shall have the power, in the manner herein described, to adopt
217 and enforce all needful orders, rules and ordinances not contrary
218 to the laws and constitution of this state; and to prescribe, im-
219 pose and enforce reasonable fines and penalties, including im-
220 prisonment in the city lock-up, jail, or station house, and to
221 work prisoners found guilty, as the council may prescribe, and
222 market the product of such labor, and with the consent of the
223 county court of Kanawha county entered of record, shall have the
224 right to use the jail of said county for any purpose necessary to
225 the administration of its affairs.

Elections and Registration and Qualification of Voters.

Sec. 6. Every person qualified by law to vote for members of
2 the legislature of this state(and who shall have been a resident of
3 said city for sixty days preceding the day of election, and a *bona*
4 *fide* resident of the election precinct in which he offers to vote)
5 shall be entitled to vote at all elections in said city by or under
6 the authority and control thereof.

Sec. 7. For the purposes of the first election to be held under this act on the seventh day of June, one thousand nine hundred twenty-one, the committee heretofore appointed by the mass meeting held in the city of Dunbar on the ninth day of December, one thousand nine hundred and twenty, consisting of Chales Gebbert, George M. Robinson and J. B. Lohan, which committee was appointed for the purpose of framing a suitable charter for said city, shall exercise all the functions relating to said first election and the conventions preliminary thereto, which are vested by the provisions of this act in the council of said city for the conduct of city election generally; and the clerk of said committee shall discharge for the purposes of said first election the functions therein assigned to the city clerk.

Sec. 8. On the first Tuesday in June, one thousand nine hundred twenty-one and every two years thereafter, there shall be elected by the qualified voters of the said city a mayor, a treasurer and six (6) councilmen; all of whose terms of office shall be for the period of two years, beginning on the first day of July next after their election, and until their successors shall be elected and shall have qualified.

Sec. 9. All nominations for office and all elections shall be made and held according to the laws of West Virginia relating to such subjects at the time when so done, except where it is herein otherwise ordered.

Sec. 10. The first election under this act shall be held on the first Tuesday in June, in the year one thousand nine hundred twenty-one, and on the same day every two years thereafter. Such election and all subsequent elections shall be held in such manner as is or shall be prescribed by law.

Sec. 11. The council shall on the first Monday in May, fix the places within said town where said election shall be held; shall appoint three commissioners and two clerks for each voting precinct at which said election is to be held, and shall appoint one member of said council to act with the city clerk as ballot commissioner, which commission shall have the ballots prepared and ready to deliver to the election officers on the day before said election, and said election commissioners and clerks so appointed by council shall hold and conduct said election in such manner as is or may be prescribed by law; they shall open the polls at sunrise and close the same at sunset, shall tabulate the vote at

12 each voting precinct and certify to council the result of the vote of
13 the precincts, respectively, at which they are serving as such elec-
14 tion officers, and shall return to the city clerk a copy of such
15 certificate, together with the ballots, tally sheets, and registration
16 books, all of which shall be sealed in one envelope or other con-
17 tainer.

18 Said council shall meet on the first Monday following said elec-
19 tion and canvass the vote and shall ascertain, publish and declare
20 the result thereof; it shall keep a record of its proceedings at such
21 meeting, and shall take down, record and receive any evidence,
22 motion or objection and any paper filed or offered by any candi-
23 date, which record shall be open to the public, and shall be kept
24 in the custody of the city clerk.

Sec. 12. The council shall, on the first Monday in May, one
2 thousand nine hundred twenty-one, and every two years thereafter,
3 appoint such registration officers as it deems necessary to register
4 all the legal voters within the corporate limits of said city, and
5 shall furnish to the election officers hereinbefore provided for a
6 list of all the said voters entitled and qualified to vote at said city
7 election, and said election officers shall not permit any person to
8 vote at said election unless his name appears upon the registration
9 book, or list of qualified voters made by such registrars.

10 The council may, at a meeting to be held for that purpose prior
11 to the date of said election, register any legal voter or voters whose
12 names have been omitted by said registrars, and said council shall
13 give at least five days' notice of said meeting, by publication in
14 some newspaper of general circulation in said city, which notice
15 shall state the time and place of said meetings, and its intention to
16 correct the registration of voters of said city, and the said registrars
17 so appointed by the council in correcting said registration at
18 said meeting.

19 *Provided*, that if the county court of the county of Kanawha
20 shall adopt the voting precincts which shall be fixed by the council
21 of said city, as herein provided for, as voting places for state and
22 county officers before another city election is held, then the regis-
23 tration of voters shall be the registration of voters for all city
24 general elections, with such additions as hereinbefore provided for;
25 *provided, further*, that it shall not be necessary to have a special
26 registration of voters for any special election, but the preceding
27 registration of voters for the regular municipal election, with such

28 additions as are hereinbefore provided for, shall be the proper
29 registration for such special election.

30 In case the registrations made under the general law are used
31 as aforesaid, it shall be the duty of the city clerk to make or have
32 made copies of the registration books on file in the office of the
33 clerk of the county court of Kanawha county at least sixty (60)
34 days before any regular city election, and such copies, with such
35 additions and changes as may be made by the city registrars, shall
36 be used for all special elections that may be held between said regu-
37 lar elections as well as for the regular elections. And the county
38 clerk of Kanawha county shall carefully preserve in his office the
39 registration books of each general election for all the precincts of
40 the city of Dunbar, and shall permit copies to be made of such reg-
41 istration books by any proper officer of the city of Dunbar.

Sec. 13. The first officers elected under the provisions of this act
2 shall enter upon their official duties on the first day of July, one
3 thousand nine hundred twenty-one, and shall serve for a term of
4 two (2) years and until their successors are elected and qualified,
5 unless sooner disqualified, impeached or dismissed.

6 Whenever two or more persons receive the same number of votes
7 for mayor, treasurer, or councilmen, such ties shall be decided by
8 the council in existence at the time the election shall be held;
9 *provided*, that the council in office at the time of the holding of
10 such election shall remain in office for the purpose of passing upon
11 and deciding such tie, and for such purpose only; and nothing
12 herein contained shall be so construed as to interfere with the
13 duties, power and authority of the new or incoming council.

Sec. 14. All city elections, regular or special, shall conform as
2 nearly as possible to the election laws contained in chapter three
3 of the code of West Virginia.

Council and Mayor.

Sec. 15. The city of Dunbar shall have a council which shall
2 be known and styled as the "Council of the City of Dunbar" and
3 shall be composed of six (6) members, all of whom shall be nomi-
4 nated, voted for and elected in the manner herein provided.

5 Only citizens entitled to vote and having property qualifications
6 hereinbefore provided shall be eligible to be elected to the office
7 of councilman, and each councilman so elected shall continue to

8 be a resident of the city of Dunbar, during his entire term of 9 office.

Sec. 16. The mayor shall be the presiding officer of the council 2 and be a member thereof, with the right to vote in case of tie, the 3 same as any other member of said council, and the city clerk shall 4 be *ex-officio* clerk of the council, and also perform the duties of 5 clerk of the police court; and the mayor and the clerk shall each 6 perform such other duties as the council may require of them. The 7 council shall, at its first meeting after each election, select one 8 of its body as president *pro tempore*, who shall, in the absence of 9 the mayor, preside as chairman of the meeting of the council, and 10 in the absence of both mayor and president *pro tempore* at any 11 meeting of the council, some member of the council shall be 12 elected to preside over such meeting.

Sec. 17. The council shall exercise all of the legislative functions 2 of the city government, and shall have the right to demand of 3 any city official, or employee, information, explanations, facts, de- 4 tails, correspondence, or other papers affecting the city's interests; 5 and it shall be deemed misfeasance and neglect of duty for any 6 such official or employee to fail or refuse to comply with such 7 demands.

Sec. 18. The council shall by proper ordinance provide for 2 the auditing of all the books and accounts of the city at least 3 once in each year, and shall employ a reputable certified account- 4 ant for such purpose, and such audit shall show the complete 5 financial condition of the city at the time thereof, and the re- 6 cepts and disbursements of all the moneys during such year. The 7 council shall also provide by ordinance for the publication of 8 the report of the accountant on the financial condition of the 9 city at least once in each year, and such report of the accountant 10 shall be spread upon the records of the council and be a public 11 record for all purposes.

Sec. 19. Any member of the council and any city official, 2 either elected or appointed, may be removed from his office by 3 the council for any of the following causes: Official misconduct, 4 incompetence, habitual drunkenness, neglect of duty, or gross im- 5 morality. Such removal shall not be made except upon charges 6 regularly filed and acted upon as follows: The charges against 7 any such officer shall be reduced to writing and entered of record 8 by the council, and a summons shall thereupon be issued by the

9 city clerk containing a copy of the charges and requiring the
10 officer named therein to appear and answer the same on a day to
11 be named therein, which summons may be served in the same man-
12 ner as a summons commencing an action may be served, and the
13 service must be made at least five days before the return day
14 thereof, and it shall require the affirmative vote of two-thirds of
15 all the members elected to council to remove any such official.
16 The circuit court of Kanawha county shall have concurrent juris-
17 diction with the council for any of the causes herein mentioned.
18 The mayor, or any other city official having the power of
19 appointment, shall have the right to remove any of his appointees
20 and appoint another qualified person in his place, but such re-
21 moval shall be made by means of a writing served upon such
22 official so removed; and all the rights and powers of such official
23 shall cease and end from the time of such service, *provided that*
24 the person so removed shall have the right of appeal to council,
25 which may over-rule the action of the mayor, or other official.

Sec. 20. The council shall make proper rules and regulations
2 for its own government and the conduct of its business, which
3 rules shall not be contrary to, or inconsistent with, any of the
4 provisions of this act, and such rules shall be duly entered of
5 record and shall be published by the council in any municipal
6 code or other publication made by the council of this act and the
7 ordinances of said city. The council shall cause a record of its
8 meetings to be kept and recorded by the city clerk in a well bound
9 book provided by the council for that purpose, which book shall
10 remain in the custody and at the office of the city clerk, and all
11 such books and all city records shall at reasonable hours and in
12 a reasonable manner be open to the inspection of the public.

Sec. 21. The council shall hold regular meetings on the first
2 and third Mondays of each month, and the hour and place of
3 such meetings shall be fixed by the council in the rules adopted
4 by it.

Sec. 22. Special meetings of the council shall be held when
2 called by the mayor or four (4) members thereof. In either
3 case, the call therefor shall be in writing and signed by the
4 mayor or members issuing it, and shall state the time and place
5 of meeting and business to be considered thereat; and a copy
6 thereof shall be served upon each member of the council then in

7 the city. No business other than that stated in such call, shall
8 be considered at such meeting.

Contested Elections.

Sec. 23. All contested elections shall be heard and determined
2 by the council and such contests shall be made and conducted in
3 the same manner as provided for in the case of contests for
4 county and district officers; and the council shall conduct its
5 proceedings in such cases as nearly as practicable in conformity
6 with the proceedings of the county court in such cases, and there
7 shall be the same right of appeal, in the same way, to the cir-
8 cuit court of Kanawha county.

Oaths of Officers.

Sec. 24. All officers elected and appointed under this act shall
2 before taking their seats or performing any of the duties of their
3 respective offices to which they shall have been elected or ap-
4 pointed, take and subscribe an oath or affirmation that they pos-
5 sess, respectively, the qualifications prescribed by this act to hold
6 such office and are not subject to any of the disqualifications
7 prescribed herein; that they will support the constitution of the
8 United States and the constitution of this state, and honestly dis-
9 charge the duties of the offices to which they are elected or ap-
10 pointed, respectively, to the best of their skill and judgment.

11 When the officer shall have made such oath in writing and filed
12 the same with the city clerk, and shall have given the bond re-
13 quired of him, he shall be considered as having qualified for the
14 office to which he was elected or appointed; *provided*, that if
15 any person so elected or appointed shall not qualify for said
16 office as herein prescribed, within twenty days after he shall have
17 been officially declared elected or appointed thereto, said office
18 shall *ipso facto* become vacant, and said vacancy shall be filled
19 in the same manner as other vacancies therein are provided for
20 in this act.

Bonds of Officers.

Sec. 25. The mayor, manager, city clerk, treasurer, city solici-
2 tor, city collector, police judge, health commissioner, chief of police,
3 and chief of fire department, each, shall, before entering upon the
4 discharge of their respective duties, give an official bond, con-

5 ditioned for the faithful performance of such duties as are pre-
6 scribed in this act or any ordinances now or hereafter passed, in
7 the amounts of five hundred (\$500.00) dollars, each.

8 The council may require additional bond from any of said
9 officers, and may likewise require bond in whatever sum they
10 may fix, of any other officer or employee. 'All bonds of officers or
11 employees shall, before their acceptance, be approved by the coun-
12 cil. The minutes of the meeting of council shall show all mat-
13 ters touching the consideration or approval of all bonds, and when
14 said bonds are approved and accepted, they shall be recorded by
15 the city clerk in a well bound book kept by him at his office for
16 that purpose, which book shall be open to public inspection; and
17 the recordation of such bonds as aforesaid shall be *prima facie*
18 proof of their correctness, and they, as so recorded, as well as
19 copies thereof duly attested by the city clerk under the seal of
20 the city, shall be admitted as evidence in all courts of this state.
21 The city clerk shall be the custodian of all bonds, except that
22 given by him, and as to it, the city treasurer shall be custodian.
23 All bonds, obligations or other writings taken in pursuance of
24 any provisions of this act, shall be made payable to "The City
25 of Dunbar" and the respective persons, and their heirs, executors,
26 administrators and assigns bound thereby shall be subject to the
27 same proceedings on said bonds, obligations and other writings,
28 for the purpose of enforcing the conditions of the terms thereof,
29 by motion or otherwise, before any court of record held in and
30 for the county of Kanawha, that collectors of county levies and
31 their sureties are or shall be subject to on their bonds for enfor-
32 cing the payment of the county levies.

Quorum.

Sec. 26. A majority of the whole number of members elected
2 to the council shall be necessary for the transaction of business,
3 but a smaller number may adjourn from time to time and may
4 compel the attendance of absent members, in such manner and
5 under such penalties as it may by rules provide.

How Vote Taken.

Sec. 27. Unless otherwise herein provided, the vote upon any
2 question or motion before the council may be *viva voce* when
3 unanimous; but if the question or motion does not receive the unan-

4 imous vote of the members present, the vote shall be taken by
5 roll call of the members and made a part of the minutes of the
6 meeting, and when the vote is unanimous the minutes shall so
7 state.

Minutes of the Meetings.

Sec. 28. The city clerk shall be *ex-officio* clerk of the council
2 and shall keep detailed minutes of its meetings and proceedings
3 in a well bound book for that purpose, which shall remain in the
4 custody of the city clerk at his office and open to public inspec-
5 tion. The minutes of every meeting after being corrected, shall
6 be signed by the mayor and city clerk; and, if thus recorded and
7 signed, they shall be admitted as evidence in any court of record
8 in this state.

Sec. 29. No officer of the city shall hold two offices with the
2 city at the same time, or be employed by the city in any other
3 capacity, without first having the consent of the council, except
4 as herein otherwise provided. All officers, except those under
5 civil service, shall hold their respective offices for a term of
6 two years.

Sec. 30. Whenever the mayor or other officer shall fail to make
2 any and all appointments under him, or required to be made by
3 him, for a period of thirty days from the time such appointment
4 should have been made after having been requested by the council
5 by resolution so to do, such appointment may be made by council.

Sec. 31. Whenever a vacancy for any cause whatever shall
2 occur in the office of mayor or treasurer, the council shall elect
3 some qualified person to fill said vacancy until the next city
4 election, and until his successor shall have been elected and quali-
5 fied; and when such vacancy shall occur in the office of any ap-
6 pointive officer, his successor shall be appointed by the person
7 making the original appointment, or his successor in office, as
8 hereinbefore provided; and all elective and appointive officers of
9 said city shall hold their respective offices until their successors
10 are elected, or appointed, and qualified, unless sooner removed.

Sec. 32. Any members of council or any officer of, or con-
2 nected with, the city government pursuant to any law of this
3 state or ordinance of the city now or hereafter passed, who shall,
4 in his official capacity or under color of his office, knowingly or
5 wilfully, or corruptly vote for, assent to or report in favor of,
6 or allow, or certify for allowance, any claim or demand against

7 the city, which claim or demand shall be on account or under
8 color of any contract or agreement not authorized by or in pur-
9 suance of the provisions of this act, or the ordinances of the city,
10 or any claim or demand against the city and which claim or de-
11 mand or any part thereof shall be for work not performed for and
12 by authority of said city or for supplies or materials not actually
13 furnished thereto pursuant to law or ordinances, and every such
14 member or officer as aforesaid, who shall knowingly vote for,
15 assent to, assist or otherwise permit, or aid in the disbursement
16 or disposition of any money or property belonging to the city
17 to any other than the specific use or purpose for which such money
18 or property shall be or shall have been received or appropriated
19 or collected or authorized by law to be received, appropriated or
20 collected, shall, upon conviction thereof, be punished by imprison-
21 ment in the county jail for a period of not less than sixty (60)
22 days nor more than one year, or by a fine of not less than sixty
23 (\$60.00) dollars, or more than two thousand (\$2,000) dollars, or
24 by both.

Attendance of Witnesses—Punishing Contempts, etc.

Sec. 33. The council in the exercise of its powers and the
2 performance of its duties, as prescribed by this act, and by the
3 laws of the state, shall have the power to enforce the attendance of
4 witnesses, the production of books and papers, and the power to
5 administer oaths in the same manner and with like effect, and
6 under the same penalties, as notaries public, justices of the peace,
7 and other officers of the state authorized to administer oaths under
8 state laws; and said council shall have the same power to punish
9 for contempt as is conferred on county courts by section thirteen
10 of chapter thirty-nine of the code. All process necessary to en-
11 force the powers conferred by this act on the council shall be
12 signed by the mayor, (or acting mayor), and may be executed by
13 any member of the police force.

Absence of Officers.

Sec. 34. Whenever for any reason the mayor shall be absent
2 from the city, or unable to attend to the duties of his office tem-
3 porarily, the president *pro tem* of the council shall perform them
4 during such absence or inability; and in the absence or inability
5 of the manager to attend to the duties of his office temporarily,

6 the mayor shall designate some one to perform such duties, pro-
7 vided that such temporary absence or inability shall not exceed
8 thirty (30) days; but, if such absence or inability shall exceed
9 thirty (30) days, then such appointment or designation shall be
10 submitted to the council, for confirmation or rejection. In the
11 absence or inability of any other appointive city officials to per-
12 form the duties of his office, the person or body making the or-
13 iginal appointment, or his successor in office, shall designate some
14 one to fill such office temporarily; or, if such absence or inability
15 extends over a period of sixty (60) days, he may appoint some
16 one to fill such office permanently.

Mayor and Other Officers.

Sec. 35. There shall be a mayor, six (6) members of council,
2 and a treasurer elected, for the term of two years, and their suc-
3 cessors shall be elected every two years thereafter, and their terms
4 of office shall begin on the first day of July of the year in which
5 they shall be elected.

6 Only citizens possessing the qualifications hereinbefore pre-
7 scribed for councilmen, shall be eligible to be elected to the office
8 of mayor or treasurer, and the mayor and treasurer, respective-
9 ly, when elected, shall continue to be residents of the city of
10 Dunbar during their entire terms of office.

11 The mayor's salary shall not be less than one thousand (\$1,000)
12 dollars, nor more than one thousand five hundred (\$1,500.00)
13 dollars per anum, and shall be fixed by council.

14 The mayor may appoint the police judge, city solicitor, the
15 chief of police and all policemen, humane officer or officers, build-
16 ing inspector, collector, city auditor, engineer, health commis-
17 sioner, lockup keeper, and the chief of the fire department; and
18 these appointments shall require confirmation by the council. The
19 mayor shall have the full and complete power of the removal
20 thereof, subject to appeal to council. The mayor shall appoint
21 the manager, by and with the advice and consent of the council.

22 The mayor shall appoint or employ such persons as the or-
23 dinances of the city may require or the council may authorize
24 by proper resolution. All such officers shall be appointed for the
25 term of two years and until their successors are appointed and
26 qualified, unless they are removed in the way and manner in this
27 act provided.

28 It shall be the duty of the mayor to attend all meetings of
29 the council and preside over that body.

30 It shall be the duty of the mayor to see that all of the laws
31 and ordinances of the city are enforced and he shall have a gen-
32 eral oversight of the peace, health and good order of the city.
33 He shall discharge the functions assigned by this act to the po-
34 lice judge and city manager until these officers are appointed.

35 The duties of the city solicitor shall be to attend the sessions
36 of council, and to prosecute all suits in behalf of the city and de-
37 fend all suits against the city, to advise the council and all of
38 the departments of the city, and generally to look after the in-
39 terests of the city when it shall need legal advice, for which he
40 shall receive a salary to be fixed by council.

41 All fees of every kind collected by any officer or employe, in-
42 cluding the police judge, when acting as a justice, shall be paid
43 to the city treasurer.

Sec. 36. The manager may be appointed in the way and man-
2 ner hereinbefore provided and shall receive such salary as council
3 may by ordinance prescribe; and he shall have the right to em-
4 ploy such other help as he may require and as council may from
5 time to time allow.

6 The manager, when appointed, shall devote his entire time and
7 attention to the duties of his office, unless otherwise provided
8 by council, and shall have supervision and control of the execu-
9 tive work and management of the heads of all departments under
10 his control as directed by the mayor. He shall make all con-
11 tracts for labor and supplies, and generally perform all of the
12 administrative work of the city, and such other duties as council
13 may require of him, and shall possess such other powers and
14 perform such other duties as council shall prescribe.

15 Council shall fix the salaries of all officers and employes not
16 otherwise herein provided for.

Franchises and Ordinances.

Sec. 37. All franchises granting the right of occupancy of
2 any portion of the streets or alleys for works of public utility or
3 service, or granting any right or privilege which the city has the
4 power to grant to individuals, firms, or corporations, in order
5 that the latter may serve the public, may be made, but only upon
6 the following restrictions and conditions: All such franchises,

7 rights and privileges shall be granted by ordinance duly passed
8 by the council.

9 No grant of any such franchise shall be made without, at the
10 time of making it, providing that the grantee shall indemnify
11 the city against all damages caused by construction, maintenance
12 or operation of such works. Additional provisions and condi-
13 tions shall be made for the protection of the public against dam-
14 age or inconvenience by reason of the construction, maintenance
15 or operation thereof.

16 No grant of a franchise for the extension of or addition to any
17 line or work of public service through, over or under any addi-
18 tional street or territory of the city, shall be made for a period
19 extending beyond the time limited for the expiration of franchise
20 of the principal work of which it is an extension and if the
21 franchise of the principal work is one granted before this act
22 goes into effect and not limited as to time, any franchise granted
23 for an extension or addition thereto shall, nevertheless, be made
24 subject to the conditions thereof, including a time limit for a
25 period not exceeding fifty years.

26 No franchise shall be granted without the affirmative vote of
27 two-thirds of all the members elected to said council.

Sec. 38. When any franchise granting the right to use the
2 streets, alleys, or public grounds, shall be applied for, notice of
3 the application or petition shall be advertised in some newspaper
4 of general circulation in said city once a week for four successive
5 weeks before the same shall be heard and determined by the coun-
6 cil.

7 All such ordinances shall protect the interests of the city and
8 shall contain conditions, compensations or limitations, as council
9 may prescribe.

Sec. 39. Council shall have the right to appoint such com-
2 mittees of its own body as it may deem proper, and may give
3 such committees power and authority to perform any duties and
4 make any reports to council concerning the duties of council,
5 and council may adjourn its meetings from time to time, pend-
6 ing the consideration of any matter, franchise, or ordinance, and
7 may postpone the announcement of any vote to an adjourned
8 meeting or to a future meeting.

Sec. 40. The style of all ordinances enacted by the council
2 shall be "Be it ordained by the council of the city of Dunbar."

Sec. 41. No ordinance shall be passed, except by bill, and no bill shall be so amended in its passage as to change its original purpose. All bills must be in writing or printed and presented and read in full by the city clerk. No bill shall be considered for final passage at the meeting at which it was introduced, but at any subsequent meeting of the council such bills may be taken up for consideration and final action. No bill except general appropriation bills which may embrace the various subjects and accounts for and on account of which moneys are appropriated, shall contain more than one subject, which shall be clearly expressed in its title. No bill shall become an ordinance unless its final passage a majority of the council vote in its favor, the vote to be taken by the yeas and nays and the names of the members voting for and against the same, to be entered of record in the minutes of the proceedings of the council. No ordinance shall be revised or re-enacted by mere reference to the title thereof, but the same shall be set forth at length as if it were an original ordinance, nor shall any ordinance be amended by providing that designated words thereof be stricken out and others inserted in lieu thereof, but the ordinance or sections amended shall be set forth in full as amended.

Sec. 42. All ordinances passed, shall be spread in *extenso* upon the records of the council when adopted. The council shall provide a well-bound book in which shall be copied by the city clerk all ordinances in the order in which they are passed, which ordinances, when so copied shall be compared with the originals by the mayor, and shall be signed by him when found correct. Such books shall be indexed so as to show in brief form the substance of the ordinance, and shall be received by all courts and justices in this state as evidence, but the council may adopt by ordinance properly designating and describing it, a code of laws and ordinances, which when adopted shall be printed in book form, or said council may designate any committee, or attorney or the city solicitor, to prepare a code ordinances for the government of the city of Dunbar, and said council may by ordinance adopt the code so prepared as a whole and when said ordinance adopting said code shall have been passed by the council, the said code shall be and become the law and ordinances of said city and may be printed by order of the council, and the same shall be so received

19 as evidence of what is printed therein, until errors or omissions
20 be affirmatively shown therein.

Sec. 43. All persons elected or appointed to the offices named
2 in this act shall be conservators of the peace within said city, and
3 they, and any other officer provided for under this act, may be
4 given authority of police officer by the council.

Sec. 44. The police judge shall be *ex-officio* a justice and a con-
2 servator of the peace, with authority to issue process for all offenses
3 committed within the police jurisdiction of the city of Dunbar, of
4 which a justice of the peace has jurisdiction under the state
5 statutes, and for all violations of any city ordinances, and shall
6 have charge of and preside over the police court of such city;
7 and may commit persons charged with felony or misdemeanor
8 to jail or take bond for their appearance before the grand jury of
9 the circuit, intermediate or criminal courts of Kanawha county;
10 he shall keep an accurate record of all his judicial proceedings in
11 said court, showing the style of each case, which record shall be
12 indexed and numbered. It shall be his duty to hold a session of
13 his said court, at least, twice each week. Before trying any
14 person charged with any violation of any ordinance he shall issue
15 his warrant, specifying the offense or violation charged; he shall
16 render judgment in any case as the law of the state or the ordin-
17 ance of the city applying thereto may require; he shall also
18 have the power to issue executions for all fines, penalties and costs
19 imposed by him and he may require immediate payment thereof,
20 and in default of such payment, may commit the person in default
21 to the jail of the county of Kanawha or some place of imprison-
21-a ment in said city, if there be one, until the fine and penalty and
22 costs shall be paid or satisfied, to be employed during the term of
23 imprisonment, as hereafter provided, but the term of imprison-
24 ment in any such case shall not exceed thirty (30) days,
25 and in all cases where a person is sentenced to imprisonment
26 or to the payment of a fine of ten dollars (\$10.00) or more, such
27 person shall be allowed an appeal from such decision to the
28 intermediate court of said Kanawha county upon the execution
29 of an appeal bond, with surety deemed sufficient by the said
30 police judge in a penalty double the amount of the fine and costs
31 imposed by him, conditioned that the person proposing to appeal
32 will appear before the intermediate court of Kanawha county
33 on the first day of the next term thereof to answer for the offense

34 wherewith he is charged and not depart thence without leave of
35 the court and satisfy all costs and fines imposed against him;
36 and in no case shall judgment for a fine of less than ten (\$10.00)
37 dollars be given by the police judge, if the defendant, his agent
38 or attorney, object thereto. If such appeal is taken, the warrant
39 of arrest, the transcript of the judgment, the appeal bond and
40 other papers of the case shall be forthwith delivered by the said
41 police judge to the clerk of the said intermediate court, and the
42 court shall proceed to try the case as upon indictment or pre-
43 sentment and render such judgment, including that of cost, as
44 the law and the evidence may require.

45 The expense of maintaining such persons committed to the jail
46 of the county by such police judge shall be paid by the city. The
47 police judge shall account for and pay over the amount of all
48 fines collected by him weekly to the treasurer of the city and
49 shall make monthly reports thereof, and all other matters per-
50 taining to his office to the council of said city.

Sec. 45. The police judge, when appointed, shall have attained
2 the age of thirty (30) years and shall have been a resident of this
3 state for a period of five years and of the city of Dunbar previous
4 to the beginning of his term of service for the period of one
5 year. After the appointment of the police judge and in his
6 absence or inability to perform his duties, the city clerk shall act
7 as police judge in his stead, and in the event that neither the
8 police judge nor the city clerk can for any cause perform such
9 duties, then the mayor shall act as police judge.

Sec. 46. In all cases of arrest by the police of the city, except
2 in cases for a felony, the person arrested shall have the absolute
3 right to give a reasonable and proper bond for his appearance
4 at police court for a trial of his case, and the police judge, city
5 clerk, mayor, chief of police, and the desk sergeant or person in
6 charge of police headquarters shall have the power, and it shall be
7 their duty, to accept such bond from such persons so arrested, and
8 upon the giving of such bond he shall be released; and it shall
9 be their further duty to permit such person arrested to communi-
10 cate in any reasonable way with any person or persons with whom
11 he may desire to have communication in reference to his giving
12 bail in order to obtain his release, and each of said officers and
13 all policemen shall render reasonable aid in assisting such per-

14 sons arrested to communicate with any person that he may desire
15 for the purpose of securing such bail.

Nuisances.

Sec. 47. The manager of said city shall have authority to
2 abate and remove all nuisances in said city. He may compel the
3 owners, agents, assignees, occupants or tenants of any lot, premises,
4 property, building or structure, upon or in which any nuisance
5 may be, to abate and remove the same by orders therefor, and the
6 council shall by ordinance provide a penalty for the violation of
7 such orders. Council may by ordinance regulate the location,
8 construction, repair, use, emptying and cleaning of all water
9 closets, privies, cesspools, sinks, plumbing drains, yards, lots,
10 areaways, pens, stables and other places, where offensive, unsightly,
11 unwholesome, objectionable or dangerous substances or liquids are,
12 or may accumulate, and provide suitable penalties for the viola-
13 tion of such regulations, which may be enforced against the owner,
14 agents, assignees, occupants or tenants of any premises or struc-
15 ture where such violation may occur. It shall be the duty of all
16 police officers to report to the manager the facts as to the exist-
17 ence of any nuisance known to them.

18 If the owner, agent, tenant, assignee or occupant of any such
19 premises, lot, property, building, or structure, as is mentioned
20 herein, shall fail or refuse to abate or remove any such nuisance,
21 as mentioned herein, or comply with the provisions of any such
22 ordinance and the regulations herein contained, the manager
23 may have said nuisance abated or the provisions of said ordinance
24 or ordinances carried out, after reasonable notice to said owner,
25 occupant, tenant, agent or assignee of his intention so to do, and
26 collect the expenses thereof, with one per centum per month
27 interest added from the date of said notice, from the said owner,
28 occupant, tenant, agent or assignee by distress or sale, in the same
29 manner in which taxes levied upon real estate for the benefit of said
30 city are herein authorized to be collected, and the expense shall
31 remain a lien upon said lot, or part of lot, the same as taxes levied
32 upon real estate in said city; which lien may be enforced by a suit
33 in equity before any court having jurisdiction, as other liens
34 against real estate are enforced. In case of non-resident owners
35 of real estate notice may be served upon any tenant, occupant,
36 assignee, or rental agent, or by publication thereof once a week for

37 not less than two consecutive weeks in a newspaper of general
38 circulation in said city.

39 And in all cases where any tenant, occupant, or agent is required
40 to abate and remove any nuisance under the provisions of this
41 section or comply with the provisions of any such ordinance as
42 is mentioned therein, the expense thereof may be deducted out of
43 the accruing or accrued rent of said property or amount due said
44 owner from said agent, and such tenant, occupant, or agent may
45 recover the amount so paid from the owner, unless otherwise
46 specifically agreed upon.

47 Any expense incurred by the manager as herein provided in the
48 manner aforesaid, may be collected in the manner herein pro-
49 vided notwithstanding the imposition of any other penalties upon
50 any of the persons named herein, under any of the provisions of
51 this act. The abatement or removal of any such nuisance by the
52 city at the expense of said city, as herein provided, shall be *prima*
53 *facie* proof that the said notice to the owner, occupant, agent or
54 assignee was given as herein prescribed.

Sec. 48. The manager may require all owners, tenants or
2 occupants of improved property which may be located upon or
3 near any street or alley along which may be extended any sewer
4 or system of sewerage, all privies, ponds, water closets, cesspools,
5 drains or sinks, located upon their respective properties or prem-
6 ises, so that their contents may be made to empty into such sewer
7 or system of drainage.

Sidewalks.

Sec. 49. The council shall have the right and authority to
2 establish the width of any sidewalk on any street, alley or public
3 square, or any portion thereof in said city, to cause to be put down
4 a suitable curb of brick, stone or other material for the footways
5 and sidewalks of the streets. alleys or public squares or portion
6 thereof, and to order the construction, re-laying, and repair of
7 sidewalks and gutters of such material and width, and in such
8 manner as the council may reasonably prescribe by the owners
9 or occupiers of the lots or parts of lots facing upon said streets,
10 alleys and public squares; and in case of a failure or refusal of
11 any such owner or occupier of the lots or parts of lots to construct,
12 re-lay, or repair such sidewalks and gutters, when required, it
13 shall be lawful for the council to have such sidewalks and gutters

14 constructed, relaid, or repaired and levy and collect the expense
15 thereof, with one per centum per month interest added after a
16 demand of thirty (30) days has been made by the treasurer of
17 the city from the said owner, owners, occupier, occupiers, or any
18 of them; and in all cases of such assessment, whether for the
19 construction, re-laying or repairing of sidewalks or gutters, pay-
20 ment thereof shall be made to the treasurer within thirty (30)
21 days after the completion of the work and demand made, and if
22 not so paid the city is hereby authorized to collect or cause to
23 be collected the expense thereof, with one per centum per month
24 interest added after the work has been completed and a demand
25 of thirty (30) days, and they shall have the power to collect,
26 or cause to be collected, the same from said owner, owners, oc-
27 cupier or occupiers or any of them by distress and sale, in the
28 same manner in which taxes levied upon real estate for the ben-
29 efit of the said city are herein authorized to be collected, and in
30 addition there shall be a lien upon the real estate against which
31 such assessment has been levied for the construction, re-laying
32 and repairing of sidewalks and gutters as herein provided, which
33 lien may be enforced by a suit in equity before any court having
34 jurisdiction, as other liens against real estate are enforced, and
35 it shall be the duty of the city clerk to cause to be certified to
36 the clerk of the county court of Kanawha county the order lay-
37 ing an assessment authorized by this section. The clerk of
38 the county court of Kanawha county is hereby required
39 to record and index such assessments in the proper
40 trust deed book in the name of persons against whose property
41 assessments appear therein. *Provided, however,* that a reasonable
42 notice shall first be given to said owners or occupiers or their
43 agents, that they are required to construct, re-lay, or repair such
44 sidewalks or gutters. In case of non-residents who have no known
45 agents in said city, such notice may be given by publication
46 for a period of not less than once a week for two consecutive
47 weeks in any newspaper printed in said city; and in all cases
48 where a tenant shall be required to construct, re-lay or repair
49 sidewalks or gutters in front of the property of his or her oc-
50 cupancy, the expense of such construction or re-laying or re-
51 pairing may be deducted out of the accruing rent of said prop-
52 erty, and he may recover the amount so paid from the owner,
53 unless otherwise specially agreed upon. The laying or construc-

tion of any such sidewalks by said city shall be *prima facie* proof that the said notice to the owner (resident or non-resident) or occupier, or their agent, was given as herein required.

Taxes.

Sec. 50. The council shall ascertain the total expense of the city to be provided for by levy for the fiscal year in which said levy is made, and it shall make a detailed itemized estimate of the sum of money necessary to pay interest accruing on the bonded indebtedness of said city, the amount required for the several sinking funds for the reduction of the principal thereof, the amounts necessary for the support of the various departments of the city and for the improvements of its streets, alleys, avenues, and public grounds, real and personal property, contingent expenses and other expenses, together with an itemized statement of the estimated receipts other than that to be derived by the annual levy; and after receiving such estimates, and before making the levy, it shall apportion the rate thereof, including the estimated receipts, from licenses and all other sources among the several funds so ascertained and provided for, which apportionment shall be spread upon the records of this city, and in making said estimate, providing for the revenue for the fiscal years, etc., it shall be the duty of the council to strictly observe all the provisions of chapter nine of the acts of the legislature, one thousand nine hundred and eight, entitled "An act to regulate the rate and manner of laying levies for taxation in counties, magisterial and school and independent school districts, and municipal corporations, and to provide penalties for the illegal expenditure of public moneys, incurring of illegal obligations and the laying of illegal levies by any tax levying body, and for the distribution of a portion of the school fund," and all amendments thereto, except where last named act shall be inconsistent with this act as to limit of taxation.

Sec. 51 The council shall have authority to levy and collect an annual tax on real estate and personal property in said city, and to impose a license and assess a tax thereon on wheeled vehicles for public hire and for all dogs kept within said city and to impose a tax upon all other subjects of taxation under the several laws of the state which shall be uniform with respect to persons and property within the jurisdiction of said city, and

8 shall only be levied on such property, real, personal and mixed,
9 on which the state imposes a tax; *provided*, that no greater levy
10 shall be laid by said council on the taxable property of said city
11 than fifty cents upon each one hundred dollars of the assessed
12 valuation of the property of the municipality, unless such greater
13 levy shall be authorized by a vote of the people at an election
14 held pursuant to said chapter nine of the acts of the legislature
15 of the year one thousand nine hundred eight; and, *provided*,
16 *further*, that the council shall, in making such levy, be subject
17 to all the provisions of chapter nine of the acts of the legislature
18 of one thousand nine hundred eight and any and all amendments
19 thereto, except as herein provided. There shall be a tax of two
20 dollars (\$2.00) annually assessed on each and every inhabitant
21 of said city over the age of twenty-one (21) years, who is sub-
22 ject to a capitation tax under the laws of the state of West
23 Virginia. The same shall be set out and included in the per-
24 sonal property book against every such inhabitant, and shall be
25 collected under the authority of the city at the time of collect-
26 ing other levies and taxes.

Sec. 52. The city taxes levied annually by the council shall
2 be collected as follows: Immediately after the annual levy for
3 city taxes is laid the council shall direct the proper officer of
4 the city to extend the same on the property books made out by
5 him, including therein the proper capitation tax; he shall make
6 out therefrom proper tax tickets in the following manner: That
7 is to say, instead of a single ticket for the whole amount charged
8 to any person, firm or corporation, there shall be two tickets each
9 for one-half of said amount; these half tickets shall be severally
10 numbered or designated "first" and "second" and the same, after
11 being examined and compared by the council and found to be
12 correct, shall be turned over to the treasurer of the city in the
13 first day of October following the levy and the treasurer's re-
14 ceipt for the gross amount thereof shall be returned, entered up-
15 on its record and the treasurer charged therewith. The treasurer
16 shall give notice by publication for twenty (20) days in some
17 newspaper of general circulation in said city, that said tax tickets
18 are in his hands for collection, stating the penalty for non-pay-
19 ment thereof and the time and place where the same may be paid;
20 *provided, however*, that the tax payers shall have the right to an-
21 ticipate the payment of the whole or any part of the taxes as-
22 sessed against him.

23 The one-half ticket designated "first" may be paid to the treas-
24 urer of the city any time before the first day of November next
25 succeeding said levy; the one-half ticket designated "second" may
26 be paid to the treasurer of the city at any time before the first
27 day of May next succeeding said levy. To all the half tickets
28 designated "first" remaining unpaid in the treasurer's hands on
29 the said first day of November succeeding said levy, a penalty of
30 ten per cent shall be added and collected from the tax payers.
31 To all half tickets designated "second" remaining unpaid in
32 the treasurer's hands on the first day of May succeeding said levy
33 a penalty of ten per cent shall be added and shall be collected
34 from the tax payers. On said first day of November succeeding
35 said levy, all such half tickets designated "first", and on said
36 first day of May succeeding said levy all such half tickets desig-
37 nated "second" remaining unpaid in the treasurer's hands shall
38 be taken up by the council and settlement had with said treas-
39 urer on said days, respectively, or on the next succeeding days,
40 respectively, if said days shall fall upon Sunday, and thereupon
41 the council shall place said tickets in the hands of the city col-
42 lector for collection and shall take his receipt therefor; *pro-*
43 *vided, however,* that the council shall have the power any year,
44 by resolution, to extend the time within which the tickets may
45 remain in the treasurer's hands and be paid to him without adding
46 the penalty, for a period named therein not exceeding, however,
47 a total of fifteen days.

48 The city collector shall have the power to collect said tickets
49 so placed in his hands, together with the penalties thereon here-
50 inafter provided, to be added thereto, and the compensation of
51 such city collector for making such collection of the taxes afore-
52 said shall be fixed by the council.

53 The city collector shall be charged with the gross amount of
54 said tax tickets so delivered to him for collection, including the
55 penalties allowed, unless on or before the first day of August of
56 each year he makes out and returns to the council a delinquent
57 list of taxes uncollected for such year, with his oath attached
58 thereto, stating that such list is correct and just and that he has
59 received no part of the taxes mentioned therein, and that he
60 has used due diligence to find property liable to distress for taxes,
61 has found none, and that he could not collect the same.

62 Neither the treasurer nor the city collector shall take or col-
63 lect anything but money for payment of taxes.

Sec. 53. The city collector shall have the power to collect the
2 city taxes except as otherwise provided in this act, and he shall
3 also have power to collect the city claims which may be placed
4 in his hands by the council for collection, except that fines im-
5 posed by the police judge shall not be collected by him.

Sec. 54. All goods and chattels belonging to a person, firm,
2 corporation or estate, assessed with any taxes, whether the same
3 be a capitation tax or a tax upon real estate or personal prop-
4 erty, or an assessment on personal property, or an assessment for
5 paving or other improvements, shall be liable for said tax, and
6 may be distrained therefor in whosoever's possession they may be
7 found and the city collector shall have the same power to collect
8 said tax or assessment from any person owing a debt to or having
9 in his possession any estate belonging to a person assessed with
10 any tax or assessment of any kind that the sheriff has to collect
11 state taxes in such cases. The city collector may distrain and sell
12 for all city taxes and assessments and in all respects have the
13 same power to enforce the collection thereof as the sheriff has
14 to enforce the collection of state taxes.

Sec. 55. There shall be a lien upon all real estate within said
2 city for the city taxes assessed thereon, including such penalties
3 added thereto for non-payment thereof as are prescribed by this
4 act, from the first day of April of the year in which said taxes
5 are assessed. Said liens may be enforced by appropriate suit in
6 any court of record in Kanawha county; *provided*, such suit be
7 instituted within five years from the time the said liens attached
8 as herein provided, and such suit may either be instituted by and
9 in the name of the city of Dunbar as plaintiff, or said city may
10 intervene by petition in any suit pending to sell or enforce liens
11 against any real estate which is subject to such lien for said taxes.
12 The liens herein created shall have priority over all other liens,
13 except those for taxes due this state.

Sec. 56. Said liens for city taxes and attendant penalties may
2 also be enforced by certifying the same to the clerk of the county
3 court of Kanawha county for certification to the state auditor,
4 and the same may be certified down by said auditor, and sold
5 for taxes, interest, penalties and commissions thereon, in the same
6 manner, at the same time, and by the same officer as real estate

7 is sold for taxes, interest, damages, cost and commissions due
8 the state thereon, which officer shall account therefor on settle-
9 ment with the city and pay over the same to the treasurer of the
10 city.

Sec. 57. No taxes or levies shall be assessed upon or collected
2 from the taxable persons or property within the corporate limits
3 of said city, for the construction, improvement or keeping in re-
4 pair of roads, for the support of the poor of Kanawha county,
5 outside of corporate limits, for any year in which it shall appear
6 that said city shall at its own expense provide for its own poor
7 and keep its own roads, streets and bridges in good order. And
8 neither the county court of Kanawha county nor the authorities
9 of the district in which said city is situated, shall have or
10 exercise jurisdiction within the corporate limits with relation
11 to the roads, streets, alleys, bridges, wharves, docks or ferries,
12 but the same shall be and remain under the exclusive jurisdiction
13 and control of the municipal authorities of said city; and said
14 city shall be liable only for the construction, improvement, re-
15 pair and good order of the roads, streets, alleys, wharves and
16 bridges in its corporate limits, except that the county of Kanawha
17 may become the joint owner and controller with the city of
18 Dunbar in a bridge or bridges across Kanawha river; *provided*,
19 that nothing in this act contained shall be so construed as to inter-
20 fere with the construction by the county court through said city
21 of the hard road for the construction of which and other roads,
22 an issue of bonds in the amount of one hundred and sixty thou-
23 sand (\$160,000.00) dollars has heretofore been authorized by
24 the voters of Union district; and the said county court shall
25 construct the said hard road along the route originally laid out
26 through said city, in all respects as if the said city were not yet
27 incorporated; and all the property within said city shall continue
28 to be liable for its proportionate part of the levies laid by the
29 county court from year to year for the purpose of paying the
30 said bonds and the interest thereon, as well as any other district
31 bonds now outstanding against the said district of Union.

Depositing City Funds.

Sec. 58. It shall be the duty of the city treasurer to keep all
2 funds of the city in some bank or banks, within said city, which
3 shall pay interest on such deposits and which shall pay interest

4 on the average daily balance of such funds in all accounts of
5 the per cent equal to that paid by state depositories on all funds
6 of the state of West Virginia and in the same manner and at the
7 same time. If no bank within the city is willing at any time to re-
8 ceive deposits of the treasurer and to pay such interest thereon,
9 the treasurer shall report this fact to the council, who shall
10 thereupon designate a bank or banks in which he shall deposit
11 said funds for the time being and until some bank in said city
12 will receive such deposits on such terms. Before receiving such
13 deposits such bank or banks shall give bond in such penalty as
14 the council shall prescribe, and with sureties to be approved by
15 said council, conditioned for the prompt payment, whenever law-
16 fully required, of all the city moneys or parts thereof which may
17 be deposited with them, which bond shall be renewed at such
18 time as the council may require.

*Municipal Buildings, Buying and Building Water Works and Other
Public Utilities, Paving Streets, Constructing Sewers, Etc.*

Sec. 59. The city of Dunbar is hereby authorized to issue and
2 sell bonds of said city for the purpose of buying and building
3 electric light plants, water works, gas lines and fields and other
4 public utilities, and for buying and building municipal buildings,
5 jails, and fire stations; and such bonds shall be sold for not less
6 than par, and be payable within a period not to exceed thirty-four
7 years, and shall bear interest, not to exceed six per centum per
8 annum; and in the issuance and sale of said bonds the city shall
9 be governed by all the restrictions of the constitution of this state
10 and the statutes of this state, with respect to the issuance and sale
11 of other bonds, *provided*, that said city shall not, by the sale or
12 issue of bonds for the purposes above mentioned, cause the aggre-
13 gate of its indebtedness, of every kind whatever, to exceed five per
14 centum of the value of the taxable property therein, but may for
15 the above purpose issue bonds to the maximum limit of said five
16 per cent; nor shall said city make such issue and sale of bonds
17 without, at the same time, providing for the collection of a direct
18 annual tax sufficient to pay annually the interest on the same,
19 and to create a sinking fund to pay the principal within the time
20 for which said bonds shall be issued.

Sec. 60. The city of Dunbar is hereby authorized to issue and
2 sell the bonds of the said city for the purpose of providing for

3 grading, paving and otherwise improving the streets and alleys
4 of said city, of constructing sewers for the proper draining of
5 same in anticipation of special assessments to be made upon the
6-7 property abutting upon the streets and alleys so improved, or
8 property so sewerred or drained, and such bonds may be in such an
9 amount as shall be sufficient to pay the entire estimated cost and
10 expense of said improvements for which such special assessments
11 are levied; *provided*, that the price for which said bonds are sold
12 shall not be below par value thereof; said bonds may be payable
13 in groups of one-fifth of the whole issue payable in two, four, six,
14 eight, and ten years, respectively, and all payable in not to exceed
15 ten years from the date of issue thereof, and shall bear interest at
16 a rate not exceeding six per centum per annum, payable annually;
17 and in the issuance and sale of said bonds, the city shall be gov-
18 erned by all the restrictions and limitations of the constitution of
19 this state with respect to the issuance and sale of other bonds,
20 and the assessments as paid and provided for in this act shall be
21 applied to the liquidation of said bonds and the interest thereon;
22 and if by reason of the penalties collected with the delinquent
23 assessments, there be any balance after the payment of said bonds
24 and all accrued interest and costs, the said balance shall be turned
25 into the city treasury to the credit of the interest and sinking fund
26 of the city.

27 *Provided*, that the city shall not by the sale or issue of such
28 bonds cause the aggregate of its debt of every kind whatsoever to
29 exceed five per centum of the value of the taxable property therein;
30 and *provided, further*, that nothing contained shall be con-
31 strued as authorizing said city to become indebted in any other
32 manner or for any other purpose, to an amount including the ex-
33 isting indebtedness in the aggregate exceeding two and one-half
34 per centum on the value of the taxable property therein (as pro-
35 vided in chapter fifty-one of the acts of one thousand nine hundred
36 and five) except for the purpose of grading, paving, sewerred and
37 otherwise improving the streets and alleys of said city and as
38 provided for in this act, and except for the purpose of buying or
39 building electric light plants, water works, gas lines and fields,
40 and other public utilities and municipal buildings, nor shall they
41 make such issue and sale of bonds for grading, paving, sewerred
42 and improving the streets and alleys of said city without, at
43 the same time, providing for the collection of a direct annual tax

44 sufficient to pay annually the interest on such debt and principal
45 thereof within a period not exceeding ten years.

46 All assessments, interest and penalties thereon, collected from
47 the abutting property owners, on account of grading, paving,
48 sewerage or otherwise improving the streets and alleys of such city
49 under the provisions of this act, shall annually be applied to the
50 annual tax required to pay the interest on such debt and such
51 principal within and not exceeding said period of ten years; and
52 in the event that the assessments, interest and penalties so col-
53 lected do not amount to a sum sufficient to pay annually the
54 interest on such debt and the principal thereof within and not
55 exceeding ten years, said city shall collect so much of said levy as
56 will pay annually the interest on such debt, and the principal
57 thereof within and not exceeding ten years.

Sec. 61. Whenever the council of said city shall deem it ex-
2 pedit to cause any street or alley in said city or portion thereof
3 to be paved, curbed, or macadamized, or otherwise improved in a
4 permanent manner, it shall order the work done in the following
5 manner and upon the following terms: The contract for such
6 paving or other improvements shall, after due advertisement in
7 which the council shall reserve the right to reject any and all bids,
8 be let to the lowest responsible bidder. The contractor shall
9 look only to the city for the payment of the work, and in no
10 sense to the abutting land owners, except as hereinafter provided.
11 The total cost of grading and paving or otherwise improving any
12 such street or alley (with the exception that where a street is
13 occupied by the street car tracks or other railways, such cost of
14 opening or otherwise improving the distance between the rails and
15 two additional feet outside of each rail, shall be borne and paid
16 entirely by the street car or other railway company operating such
17 street or other railway, unless otherwise provided by the franchise
18 of such street car or other railway company granted previously to
19 the passage of this act), shall be borne by the owners of the land
20 abutting upon said street, alley or portion thereof, according to
21 the following plan, that is to say: Payment is to be made by all
22 land owners on either side of such portion of a street or block so
23 paved or improved in such proportion of the total cost, less the
24 portion, if any, chargeable to such street or other railway company,
25 as the frontage in feet on his land so abutting bears to the total
26 frontage of all lands so abutting on such street, alley or portion

27 thereof so paved or improved as aforesaid. The cost of such paving
28 or improvement chargeable to the abutting owners under this
29 section is not to include any portion of the amount paid for paving
30 of squares at intersection of streets, which shall be borne and paid
31 by the city, except as otherwise herein provided.

32 When the paving of any street, alley or portion thereof shall
33 have been let to contract and the work done as hereinbefore pro-
34 vided, it shall be the duty of the engineer of said city to cause the
35 several frontages abutting thereon to be measured, and to calculate
36 the assessment upon each and every land owner so abutting and to
37 certify the same to the council showing the proper amount to be
38 determined, as provided in the foregoing plan. It shall be the
39 duty of the council to examine and compare such assessment,
40 amounts and names so certified to it, and thereupon give notice by
41 publication once a week for two consecutive weeks in some news-
42 paper of general circulation in said city, that an assessment under
43 this act is about to be laid against the abutting property for paving
44 or improvements done on said streets or alleys, describing the loca-
45 tion of such paving or improvements, and any owner or owners
46 thereof shall have the right to appear before said council, within
47 two weeks from the first publication thereof, and move to correct
48 an apportionment or assessment excessive or improperly made as
49 charged, which correction said council shall have the power to
50 make according to the intent of this act, and if found to be correct
51 or when corrected by the council as aforesaid, it shall enter the
52 same, together with a description of the lots of land as to location,
53 frontage, depth and ownership so far as the same may be ascer-
54 tained, upon its records and shall enter in its records that such
55 owners and lots be assessed and chargeable with the amount so
56 ascertained to be borne by them respectively; and when so ap-
57 proved, certified and entered on record the same shall be and con-
58 stitute an assessment against said owners and lots for such re-
59 spective amounts. And it shall be the duty of the council to imme-
60 diately certify such assessment to the treasurer for collection as
61 herein provided, and a copy of said order shall be certified by the
62 city clerk to the clerk of the county court of Kanawha county,
63 who shall record and index the same in the proper trust deed book
64 in the name of each person against whose property assessments ap-
65 pear therein. The amount so assessed against said abutting land
66 owners shall be paid in ten payments, as follows: That is to say,

67 one-tenth of said amount, together with interest on the whole
68 assessment, shall be paid into the city treasury, before the first day
69 May next after said work is completed, and said assessments have
70 been certified to the county clerk. And a like one-tenth, together
71 with interest for one year upon the whole amount remaining un-
72 paid on or before the first day of May in each succeeding year
73 thereafter until all has been paid, and each of said installments of
74 one-tenth beginning with the first shall bear interest on the amount
75 of said installments at six per centum per annum from the date of
76 record of same in the county clerk's office until paid; *provided,*
77 *however,* that any abutting property owner so liable for any
78 portion of the cost of such paving shall have the right at any time
79 after the same is certified as aforesaid to the treasurer for collection
80 to anticipate the payment of any or all of said assessments and
81 shall be allowed to pay the face of said assessment with interest at
82 six per cent per annum only from the time of recordation to the
83 time of payment. To each of such installments of assessments
84 remaining unpaid in the treasurer's hands on the day herein speci-
85 fied for the payment thereof, a penalty of ten per centum on the
86 principal sum shall be added and any assessment so remaining
87 unpaid in the treasurer's hands on such date, shall be taken up on
88 such settlements had with the treasurer on such dates, and there-
89 upon such assessments shall be placed with the penalty added
90 thereto, in the hands of the city collector to be treated and con-
91 sidered, and payment thereof enforced in all respects as herein-
92 before provided for the collection of taxes due the city, and they
93 shall be a lien upon the property liable therefor the same as taxes,
94 which lien may be enforced in the same manner as provided for
95 taxes. The lien hereinafter provided for shall have priority over all
96 other liens except those for taxes due the state and shall be on a
97 parity with taxes and assessments due the city. Whenever all such
98 assessments for paving, sewerage, macadamizing or other improve-
99 ments shall be paid in full to the treasurer, he shall deliver to the
100 party paying the same a release of the lien therefor, which may be
101 recorded in the office of the clerk of the county court of Kan-
102 awha county as other releases of liens, and whenever any such
103 assessment shall not be in the hands of the treasurer for collection,
104 but the same shall be shown to the satisfaction of the city auditor
105 or other official performing the duties of auditor, to have been
106 paid in full to any officer entitled to receive the same, such auditor
107 or the mayor may in like manner execute such release.

Sec. 62. Whenever the council shall order the construction of any public sewer in said city, the owners of the property abutting upon any street in which such sewer shall be constructed, shall be charged with and liable for sewerage assessments as follows: When said sewer is completed the engineer of said city shall report to the council in writing, the total cost of such sewer, and a description of the lots and lands as to the location, frontage, depth and ownership liable for such sewer assessment, so far as the same may be ascertained, together with the amount chargeable against each lot and owner, calculated on the basis of the cost thereof, and any lot fronting on two streets, one in the front and another in the rear of said lot, shall be assessed on both of said streets, if a sewer is constructed on both streets, or if fronting on a street and running back to an alley, shall be assessed on both the street and alley, if a sewer shall be constructed in both street and alley; and thereupon said council shall give like notice by publication as is required in case of street paving assessments, and the same rights shall exist as to the persons and property affected and the same duty as to corrections by said council as are prescribed with reference to paving, which report shall in like manner be examined by the council; and, if found to be correct or corrected, as aforesaid, and such estimated assessments to be a fair and equitable apportionment of the cost of such sewer upon the basis hereinbefore described, it shall enter an order upon its records, setting forth such location, ownership and said amount of such sewer assessments, against each, respectively, calculated as aforesaid, and the entry of such order shall constitute and be an assessment for such proportion and amount so fixed therein against such respective owners and lots, and, if after such advertisement, notice and hearing, said council shall find that such apportionment at such rate is unjust or inequitable, and contrary to the intent of this act, it shall ascertain, fix and assess the costs, thereof among and upon the abutting property owners respectively, justly and equitably and according to the intent hereof, and in like manner, assess and enter the amount so fixed respectively upon its records; and the council shall, in either event, thereupon certify the same to the treasurer for the collection, and certify a copy of such order to the clerk of the county court of Kanawha county, who shall record the same in the proper trust deed book, and index the same in the name of each owner

41 of any such lot so charged with such assessment, and such assess-
42 ment made, shall constitute and be a lien upon said lots, respect-
43 ively, which shall have priority over all other liens, except those for
43-a taxes due the state, and shall be on a parity with other taxes and
44 assessments due the city. Said amounts so assessed against the said
45 several land owners shall be paid by the parties liable therefor
46 to the said treasurer at all times in the manner and with the atten-
47 dant penalties for the failure to pay promptly at the time pre-
48 scribed in all respects as hereinbefore provided in the case of
49 assessments for paving streets and alleys in a permanent manner,
50 and the parties liable therefor shall, in the same manner, and to
51 the same extent, have the right and be entitled to anticipate any
52 or all of such installments thereon as in such case provided. The
53 owners of, or the tenants, occupants or agents of any lot abutting
54 on or near or adjacent to any street or alley in said city, on which
55 a public sewer is or may hereafter be laid and constructed, upon
56 which lot any business or residence building is or may hereafter be
57 erected, or upon which any water stands not connected with a
58 public sewer, may be required and compelled to connect any such
59 building or lot with such sewer. Notices to connect may be given
60 to the owner, lessee, or occupant of such building. Each day's
61 failure to comply with such notice and connect with such sewer
62 by such owner or owners, ten days after such notice is given shall
63 be a misdemeanor and a separate and new offense under this sec-
64 tion, and every such offense shall be punishable by fine of not less
65 than five nor more than twenty-five (\$25.000) dollars. The ex-
66 pense incurred by any tenant, occupant or agent in complying with
67 the order of said council to make such sewer connection may be
68 deducted out of the accruing rents as provided for in section 47
69 relating to the abatement of nuisance. Jurisdiction to hear, try,
70 determine and sentence for violation of this section is vested in
71 the police court of such city.

72 The liens herein and hereinbefore provided for street paving,
73 macadamizing and sewerage assessments and assessments for other
74 improvements shall constitute liens upon the real estate upon
75 which they are assessed, as against creditors of the owners thereof.
76 or purchasers for value, and without actual notice of such liens,
77 only from and after the time that the statement thereof certified
78 as aforesaid shall be filed for record in the office of the clerk of
79 the county court of Kanawha county; *provided*, that in case any

80 lot of land so assessed in the name of a particular owner shall
81 have been conveyed by him before the lien thereon shall have been
82 certified and fixed with the clerk of the county court, as aforesaid,
83 the said lien shall nevertheless attach to the land in the hands of
84 the subsequent owner, and the same in all respects as if the assess-
85 ment were made in his name.

Sec. 63. Whenever it is deemed expedient by the council of
2 said city to provide for the grading, paving, sewerage or macad-
3 amizing, or otherwise improving any street or alley therein to be
4 paid for in whole or in part by special assessment, said council
5 shall declare by resolution, by aye and no vote, the necessity of
6 such improvement. At the time of passage of said resolution the
7 said council shall have on file in the office of the city clerk plans,
8 specifications, estimates and profiles of the proposed improvements
9 showing the proposed grade of the street and improvements, after
10 completion, with reference to the property abutting thereon, which
11 plans, specifications, estimates and profiles shall be open for the
12 inspection of all persons interested. Said resolution shall deter-
13 mine the general nature of the improvements, what shall be the
14 grades of the street, alley or other public place to be improved,
15 as well as the grade or elevation of the curb, and said council
16 shall approve the plans, specifications, estimates and profiles for
17 the proposed improvement. The council shall also determine in
18 said resolution the method of paying for the work contemplated
19 in said plans and specifications, whether by an appropriation
20 from the funds in the treasury unappropriated, or whether bonds
21 shall be issued in anticipation of the collection of special assess-
22 ments, to be made against the abutting property owners, as pro-
23 vided for in section sixty of this act. Said resolution shall further
24 show the approximate estimated cost of said proposed improve-
25 ment per front foot, and shall fix a date at some meeting of the
26 council, on which the owners of property to be assessed for such
27 improvement may appear and protest against the same or be other-
28 wise heard in reference thereto. Assessments shall be payable
29 in ten installments as provided for in said sixty and sixty-first
30 sections. The resolution herein provided for declaring the neces-
31 sity for said improvement shall be published at least once a week,
32 for two successive weeks after its adoption, in some newspaper
33 of general circulation in the city and an affidavit of the publisher
34 showing publication for such time together with a copy of said

35 notice attached, shall be filed with the city clerk of the said city
36 and spread upon the record of the minutes of the next meeting of
37 the council, said resolution shall be in effect from and after the
38 first publication thereof as herein provided for.

Sec. 64. A notice of the passage of the resolution required in
2 the last preceding section, embodying a copy of said resolution,
3 shall be served upon the owner of each piece of property to be
4 assessed, said service to be made in manner provided by this act
5 for serving notices herein required; *provided*, that if it appears
6 by the return, in any case, that the owner can not be found, then a
7 notice of the passage of said resolution shall be published in some
8 newspaper of general circulation in said city once a week for two
9 consecutive weeks, and such notice, whether by services or publica-
10 tion, shall be completed at least three days before said improve-
11 ment is begun or the assessment is levied, and the return of the
12 officer serving such notice or a certified copy of said return, or
13 when published, the certificate of the publisher of said newspa-
14 per shall be *prima facie* evidence of the service of the notice as
15 herein required. Notice upon infants may be served on their
16 guardian, and upon insane persons, by their committee.

Sec. 65. The city of Dunbar shall pay the cost of paving inter-
2 sections of all cross streets, except as herein otherwise provided,
3 but not including the places where private alleys or private cross-
4 ings, cross sidewalks, which shall be paved by the owner or
5 owners of said private alleys or crossings at his or their expense.

Sec. 66. It shall be lawful for said city of Dunbar to issue and
2 sell its bonds as provided in this act for the sale of other bonds,
3 to pay the city's part of the cost of said improvements as required
4 by this act, and it may levy taxes in addition to all other taxes
5 authorized by law, to pay such bonds and interest thereon. *pro-*
6 *vided*, that the total indebtedness of the city for all purposes shall
7 not exceed five per centum of the total value of all taxable prop-
8 erty therein.

Sec. 67. At the expiration of not less than three days from
2 the time of the giving and publication of the notices as provided
3 for in section sixty-four the council shall sit at the time and place
4 fixed for the purpose of hearing all property owners to be affected
5 with reference to the proposed improvements and shall hear and
6 consider any objections thereto; and council shall thereupon
7 determine whether it will proceed with the proposed improvements

8 or not; and, if it decides to proceed therewith, an ordinance for
9 the purpose shall be passed; said ordinance shall set forth the
10 streets and alleys upon which the abutting property is to be assessed
11 for the improvements and shall contain a statement of the general
12 nature of the improvements, and the character of the materials
13 which may be bid upon therefor, of the mode of payments therefor;
14 a reference to the resolution therefor passed for said improve-
15 ment, giving the date of its passage and a statement of the inten-
16 tion of the council to proceed therewith in accordance with said
17 resolution and in accordance with the plans, specifications, es-
18 mates and profiles provided for said improvement. In setting
19 forth the lots and lands abutting upon the improvement it shall
20 be sufficient to describe them as the lots and lands bounding and
21 abutting upon said improvements between and including the
22 termini of said improvements, or by the description by which
23 they are described on the land books of the county of Kanawha,
24 and this rule of description shall apply in all proceedings in which
25 lots or lands are to be charged with a special assessment.

Sec. 68. In any case in which special assessments have been
2 made, or shall hereafter be made, upon property for the construc-
3 tion of any improvement authorized by this act or previous statutes
4 and several kinds of material have been named in the ordinance
5 or ordinances providing for the same, and bids have been received
6 for the construction of said improvements with any, either or all of
7 said material, said assessments shall be valid and binding assess-
8 ments, on the property so assessed. In the case of the con-
9 struction of sewers required under the provisions of this act, notice
10 of the passage of said resolution therefor, as provided for in sec-
11 tion sixty-four of this act, shall be given in the manner provided
12 for in said section of this act.

Sec. 69. No public improvement, the cost or part of the cost of
2 which is to be especially assessed on the owners of property, shall
3 be made without the concurrence of three-fourths of all the mem-
4 bers of council, unless the owners of a majority of the front foot-
5 age to be assessed petition in writing therefor, in which event the
6 said council shall be authorized by the affirmative vote of a ma-
7 jority thereof to proceed with the improvement in the manner
8 herein provided for.

Sec. 70. When the whole or any portion of the improvement
2 authorized by this act passes through or by a public wharf, market
3 space, park, cemetery, structure for the fire department, water

4 works, school building, infirmary, market house, work house, hos-
5 pital, house of refuge, bridge, gas works, public prison, court
6 house, church or any other public structure or public grounds
7 within said corporation and belonging to said corporation or to
8 the county, state or any church, association, or eleemosynary in-
9 stitution, the council may authorize the proper proportion of the
10 estimated cost and expense of the improvement to be certified to
11 the clerk of the county court of Kanawha county, and it shall be
12 the duty of these persons having charge of the fiscal affairs of any
13 such property or institution to make proper arrangements for the
14 payment of such assessments when due and payable.

Sec. 71. The cost of any improvements contemplated in this
2 act and for which assessments may be made, shall include the cost
3 and expense of the preliminary and other surveys, and of printing
4 and publishing of all notices required to be published, and serv-
5 ing the notices upon the property owners and the cost of construct-
6 ing and inspection.

Sec. 72. No person shall bring any action whatever in any
2 court in this state for damage arising out of improvements or
3 change of grade unless he shall have filed with the council at some
4 time after the publication of the notice provided for in section
5 sixty-four and before the time of the introduction of the ordinance
6 providing for said improvement a statement of the damage which,
7 in his opinion, he will sustain by reason of said improvement or the
8 change of grade therefor, which statement shall be duly sworn to
9 and be spread upon the minutes of said council.

Sec. 73. Proceedings with respect to improvements shall be
2 liberally construed by the courts to secure speedy completion of the
3 work at reasonable cost, and a speedy collection of the assess-
4 ments after the time has elapsed for their payment, and merely
5 formal objection in such cases shall be disregarded.

Sec. 74. It is especially provided that no bonds shall be issued
2 under the provisions of this act unless and until the question of
3 issuing said bonds shall have first been submitted to a vote of the
4 people of the city and shall have received three-fourths of all votes
5 cast at said election for or against the same.

6 The council may provide by ordinance for an election every year,
7 at which the question shall be submitted to the people, as to whether
8 the city shall be authorized to issue bonds for the purpose and un-
9 der the provisions of this act, to an amount not to exceed in the

10 ensuing year the amount recommended by said ordinance for said
11 ensuing year; but the ordinance providing for said election need
12 not specify in detail the location of the improvements contemplated
13 to be paid for during the ensuing year out of said aggregate issue
14 authorized for said year; but before issuing any bonds the council
15 shall pass separate ordinances for such street or alley to be im-
16 proved, dealing with all the requirements set forth in section
17 sixty-seven of this act, and notwithstanding the provisions of sec-
18 tions two, three and six of chapter forty-seven of the code, it shall
19 be sufficient description of the purpose for which said election is
20 held if the ordinance providing for said election shall recite that
21 it is to authorize the council of said city to issue bonds for the
22 purpose of grading, paving, sewerage or otherwise improving the
23 streets and alleys of said city, at such times as the council shall
24 deem fit during the ensuing year ending on the day of
25, 19...., to an amount not exceeding in the
26 aggregate during the year the sum ofdollars;
27 and when the council shall have been once authorized by a vote of
28 the people to issue bonds for the purpose and in a sum not to
29 exceed the amount set forth in the ordinance providing for the
30 said election, no further election shall be necessary for the is-
31 suing of bonds during said ensuing year up to the amount stipu-
32 lated in said ordinance providing for said election; but the coun-
33 cil shall from time to time during said ensuing year, by ordinance,
34 authorize the issue of said bonds, in such sums and for the im-
35 provement of such streets or alleys as to it may seem best, pro-
36 viding the requirements of this act are complied with. The ag-
37 gregate amount of bonds authorized by said annual election shall
38 not be exceeded during said ensuing year, unless and except the
39 same be authorized by special election held at a subsequent time
40 in said year and duly called as provided for the calling of the
41 annual bond election.

42 The provisions of chapter forty-seven of the code concerning
43 bond elections, shall, so far as they are not in conflict with the
44 provisions of this act, apply to the annual bond elections and
45 special bond elections herein provided for.

Hospitals, Libraries, Etc.

Sec. 75. The council shall have the authority to erect, buy, sell
2 and lease all buildings necessary for the use of the city govern-

3 ment and to provide for and regulate the same, and to establish
4 and maintain public hospitals, libraries, and reading rooms, and to
5 purchase books, papers and manuscripts therefor, and to receive
6 donations, gifts, or bequests for same in trust or otherwise.

Civil Service Board.

Sec. 76. For the purpose of making examinations of persons
2 applying for offices or positions in the fire department, and pre-
3 scribing rules for their conduct, the council may appoint three
4 discreet persons, who need not be members of council, who shall
5 act and be known as a civil service board, and the city clerk shall
6 shall be *ex-officio* clerk of said board.

7 The civil service board, when appointed, shall adopt rules for its
8 own government and cause the minutes of its members to be
9 recorded in a book especially provided for that purpose, which
10 shall be kept by the city clerk at his office, and open to public in-
11 spection. The civil service board, at least every six month in
12 each year and oftener if it deems it necessary, after ten days'
13 notice published in some newspaper of general circulation in the
14 city and giving the time and place of meeting, shall hold examina-
15 tions for the purpose of determining the fitness and qualifications
16 of applicants for offices and positions in the fire department,
17 which examinations shall be practical and shall fairly test the
18 fitness of the person examined to discharge the duties of the posi-
19 tion to which he seeks appointment and such examinations shall
20 be made with the aim to secure and maintain an honest and effi-
21 cient fire department. Said board shall at once, after each of said
22 examinations, place on record in the journal of the civil service
23 board the results of said examination, giving the names of appli-
24 cants and the positions sought by them and their respective per-
25 centages. In making such examination, size, weight, intelligence,
26 health, physical appearance, habits and moral standing and sur-
27 roundings shall be taken into consideration.

28 All persons examined by said civil service board and receiving a
29 general average of seventy per centum shall be placed upon an
30 eligible list, and thereafter all appointments, whether original or to
31 fill vacancies therein from time to time, shall be filled by the ap-
32 pointment of the applicant who has the highest standing on the
33 eligible list, *provided* that at the time any appointment is to be
34 made from the eligible list, the civil service board, in its discretion,

35 may make another examination of such person before his appoint-
36 ment and may for good cause on such examination change the
37 grade of such applicant.

Sec. 77. All persons appointed to positions in the fire depart-
2 ment except the chief thereof, after the creation of such service
3 board, shall be appointed in the manner provided in section seven-
4 ty-six.

Sec. 78. No member of the fire department or police depart-
2 ment shall actively engage in any primary election, convention
3 or election in which any officer in the city, county or state is to be
4 nominated or elected, nor shall such member, directly or indirectly,
5 give or offer to give, contribute or offer to contribute, any money
6 or thing of value or profit to any political committee or party
7 organization to be expended in behalf of any political party, nor
8 to any candidate or candidates for nomination for or election to
9 any office in the city, county or state. The violation of any of the
10 provisions of this section by any member of the fire department or
11 police department shall be deemed misconduct in office. Any
12 member of the fire department or police department guilty of
13 misconduct shall be dismissed from the service of the city by the
14 head of his department or by council, upon charges preferred and
15 proven by any citizen of said city.

Sec. 79. The council shall hear and determine all charges
2 against any officers of or persons holding a position in the fire de-
3 partment, after ten days' written notice to the accused of the
4 charges preferred against him and of the time and place of hear-
5 ing of said charges and an opportunity shall be given to the ac-
6 cused to be heard. After hearing said charges the council may,
7 by a majority vote of its members sustain the same, and by like
8 vote may reprimand, fine or suspend, dismiss or reinstate said
9 accused person. Upon the making of such charges, and pending
10 trial thereon, the chief of the fire department, when the provoca-
11 tion is great, may suspend the accused officer, and if he be there-
12 after found guilty on the charges preferred, and by reason thereof
13 dismissed, or suspended, he shall draw no salary during the period
14 of his suspension.

Serving Notice.

Sec. 80. When any notice is required to be given, or any sum-
2 mons, warrant or other process is required to be served or other-
3 wise executed, under the provisions of this act it shall be sufficient

4 if such notice, summons, warrant, or other process be executed by
5 an officer of the police department of said city in the same way or
6 manner in which the laws of the state prescribe for executing sum-
7 monses and subpoenas by state officers, unless otherwise provided
8 by this act.

Sec. 81. The city clerk, acting under state laws insofar as they
2 are not in conflict with this act, shall perform such duties relating
3 to all municipal elections held under the municipal authorities of
4 said city as the clerks of the county and circuit courts of Kanawha
5 county perform under state laws in relation to state, county and
6 district elections in said county; and he shall likewise be the custo-
7 dian of all ballots, tally sheets, etc., pertaining to all municipal
8 elections.

Policemen.

Sec. 82. The mayor shall appoint such number of policemen as
2 may be prescribed by the council by ordinance, and the mayor shall
3 have, at his discretion, the absolute right and power to dismiss any
4 policeman and appoint another in his stead. The policeman shall
5 be under the command of the mayor and the chief of police, and
6 shall perform any and all the duties incident to the office of police-
7 men and in addition to the usual and customary duties prescribed
8 by the laws of this state and under the provisions of this act re-
9 quired of them, it shall specially be the duty of each police to re-
10 port to the chief of police, or some one designated by him to re-
11 ceive such report, as often as occasion demands, the condition of
12 all streets, sidewalks, alleys, basements, backyards, buildings,
13 unimproved lots, and all other things within the limits of said
14 city that may come under the notice of such policemen which may
15 relate to the health of the citizens thereof. It shall be the duty
16 of each police officer to perform all duties of humane officer, and
17 to exercise all the functions, power and authority relating thereto
18 which are or may be prescribed by any law of this state or ordin-
19 ance of said city.

Members of Council.

Sec. 83. Each member of the city council shall be paid during
2 his term of office the sum of two dollars and fifty cents (\$2.50)
3 for each meeting of the council that he shall attend, *provided*,
4 that the aggregate amount to be paid to each member shall not
5 exceed the sum of one hundred (\$100.00) dollars per annum.

6 It shall be the duty of all councilmen to attend all the meet-
7 ings of the council, and if any member of council shall be absent
8 from its meetings as shown by its record for three consecutive
9 meetings, then his office shall become *ipso facto* vacant, unless
10 the council shall authorize or excuse such absence. If the office
11 of any councilman shall become vacant under the provisions of
12 this section, then the council shall proceed to fill the same as
13 it is herein authorized to do in case of vacancies generally.

Reports.

Sec. 84. It shall be the duty of the manager, not later than
2 the tenth day of any month after his appointment, to make a
3 detailed report to the council for the preceding month. Such
4 report shall show under distinct heads, first, the names and sal-
5 aries of all employes under the control and supervision of the
6 manager; second, all expenditures or disbursements in the sev-
7 eral departments under the supervision of the manager; third,
8 an itemized statement of all purchases, together with the cost
9 thereof, for each and every department; fourth, all such other
10 matters and things as the council may by proper ordinance or
11 resolution require of said manager. Such report shall be entered
12 of record in the minutes of the council and be a public record,
13 open to the inspection of all persons. All officers or employes
14 in any departments under the supervision of the manager shall,
15 whenever required by said manager, make full and complete re-
16 ports of all things done by them as such officers or employes, in
17 connection with the business of the city.

Additional Method of Paving.

Sec. 85. In addition to the method provided for paving streets,
2 by section sixty-one of the charter of the city of Dunbar, the
3 council may order any block, street, avenue, or alley, or portion
4 thereof, to be paved or otherwise permanently improved, and
5 the council may order the mayor and city clerk to issue to the
6 contractor doing the paving, or other permanent improvement, a
7 certificate for each installment of the amount of the assessment
8 to be paid by the owner of any lot or fractional part thereof front-
9 ing on such street, avenue or alley, and the amount specified in
10 said assessment certificate shall be a lien as aforesaid in the
11 hands of the holder thereof upon the lot or part of a lot fronting

12 on such street, avenue or alley and such certificate shall draw
13 interest from the date of said assessment and the payment may
14 be enforced in the name of the holder of said such certificate by
15 proper suit in equity in any court having proper jurisdiction
16 to enforce such lien, and the council shall fix the amount of
17 such assessment, advertise for bids and do all things in con-
18 nection therewith as is provided for paving or permanently im-
19 proving any street or alley or portion thereof in section sixty-
20 one except that in fixing the amount of such assessments the cost
21 of paving the street intersections shall be included and the propor-
22 tionate part thereof shall be assessed against each lot owner;
23 *provided*, that the cost of not more than one intersection shall
24 be assessed against the lots situated between any two cross streets;
25 and such certificates shall be issued in the same number of in-
26 stallments and payable at the same time as other paving or per-
27 manent improvements are provided to be paid for and shall be
28 a lien in the hands of the holder thereof upon the particular
29 lot against which they are assessed in the same way and manner
30 as provided for assessments made under section sixty-one of said
31 charter; and nothing contained in this act or in any general law
32 shall be construed as imposing a time limit upon the enforcement
33 by appropriate suit of any lien for public improvements made
34 hereunder; and, *provided, further*, that no error in the pub-
35 lication of any notice required hereunder shall in any way affect
36 the validity of the certificates herein provided for.

37 Such certificates as may be issued pursuant to the foregoing
38 section shall contain a provision to the effect that in the event
39 of default in the payment of any one of said certificates, when
40 due and such default shall continue for a period of sixty days,
41 then all unpaid certificates shall become due and payable and
42 the holder of said certificates may proceed to collect all of such
43 unpaid certificates in the manner hereinbefore provided.

44 *Provided*, that no street, avenue or alley shall be paved or
45 otherwise permanently improved pursuant to this section except
46 and unless two-thirds of all the members elected to council shall
47 concur therein.

Sec. 86. In case of the construction of any pavement, sewer,
2 sidewalk or other permanent improvement under the provisions
3 of this act, when an assessment shall be void or voidable by
4 reason of errors, irregularities or defects in the proceedings un-

5 der which such improvements shall have been made, or in case
6 such assessment shall have been made against the wrong person,
7 it shall be the duty of the council, within two years after any
8 court shall have declared such assessment invalid, to cause
9 notice to be given to any person against whom the cost of such
10 improvement might properly have been assessed under this act,
11 of its intention to lay such assessment against him, and fixing a
12 time and place at which he may appear and show cause, if
13 any, why such assessment should not be laid. Said notice shall
14 be served as provided in this act for the giving of notices in
15 assessment proceedings, or in any other manner provided by
16 law, including by publication, if the person is a non-resident of
17 the city or can not be found.

18 At the time and place fixed for a hearing under the notice
19 aforesaid, the council shall proceed to lay and levy an assess-
20 ment for the cost of such permanent improvement in such man-
21 ner as would have been lawful under proper proceedings at the
22 time said improvement was made, unless the person so notified
23 shall show good cause why the same should not be laid, and no
24 further notice of such assessment shall be necessary. The as-
25 sessment so laid shall be a lien upon the property liable therefor,
26 as of the date of the original void, or voidable, assessment, and
27 shall be recorded in the same manner as is hereinafter provided.
28 This section shall apply to assessments made and certificates is-
29 sued under section eighty-five of this act, as well as to other
30 assessments and liens for public improvements.

Miscellaneous Provisions.

Sec. 87. In addition to the method of securing the laying of
2 sidewalks set out in section forty-nine of this chapter, the council
3 of said city may cause any sidewalk to be constructed, laid, re-laid,
4 or otherwise permanently improved in the city of Dunbar in the
5 following manner and upon the following terms: Notice shall first
6 be given the abutting property owners by publication in some
7 newspaper of general circulation in the city, giving location, esti-
8 mated frontage and depth, but no error in said publication shall
9 in any way effect the validity of the certificates hereinafter pro-
10 vided for, or any of them. The contract for same shall, after due
11 advertisement in which council shall reserve the right to reject
12 any and all bids, be let to the lowest responsible bidder and upon

13 completion and acceptance of the work, council shall order the
14 mayor and city clerk to issue to the contractor doing the work a
15 certificate for the amount of the assessment to be paid by the owner
16 of any lot or fractional part thereof fronting on such sidewalk,
17 and the amount specified in said assessment certificate shall be a
18 lien in the hands of the holder thereof upon the lot or part of a lot
19 fronting on such sidewalks and such certificate shall draw interest
20 from the date of said assessment, and the payment may be enforced
21 in the name of the holder of such certificate by a proper
22 suit in equity in any court having proper jurisdiction to enforce
23 such liens, and council shall fix the amount of such assessments
24 and do all things in connection therewith necessary to make them
25 valid and do all other things in connection therewith as is provided
26 for paving or improving streets and alleys and such certificates
27 shall be issued for each abutting lot or portion thereof payable six
28 months from the date of the completion and acceptance of the
29 work and shall be a lien in the hands of the holder thereof upon
30 the particular lot against which they are assessed in the same way
31 and manner as assessments for street paving liens under the other
32 provisions of this act; *provided, however*, that council shall not
33 order any but concrete sidewalks; and *provided, further*, that council
34 shall not advertise for bids for any one letting of less than five
35 thousand (5,000) square feet; and *further provided*, that council
36 shall not receive any bids or let any sidewalk contract between the
37 first day of October and the first day of March of any years. Nothing
38 in this section shall be so construed as to prevent any abutting
39 lot owner from having his own sidewalk put in if done before the
40 advertising hereinbefore mentioned, and provided same is done according
41 to the lines, grades and specifications of the city engineer,
42 for which no charge shall be made. The total cost of construction,
43 laying, re-laying or otherwise permanently improving any sidewalk
44 or walks shall be borne by the owners of the land abutting upon
45 said sidewalk or sidewalks according to the following plan, that is
46 to say, payment is to be made according to the proportion which
47 the number of square feet in front of any lot or portion thereof
48 bears to the whole letting. The contract for sidewalks referred to
49 in this section need not be for one continuous sidewalk, but the five
50 thousand square feet required for a letting, as aforesaid, may be
51 made up of or composed of any number of sidewalks in any part
52 of the city.

Sec. 88. The county assessor shall furnish to the city clerk a
2 transcript of real and personal property in the city of Dunbar on
3 or about the tenth day of September of each year, and his fee for
4 same shall be not less than one hundred (\$100.00) dollars nor
5 more than four hundred (\$400.00) dollars for such work.

Sec. 89. The police judge, mayor and city clerk shall each have
2 authority to issue process for all offenses committed within the
3 police jurisdiction of the city of Dunbar for all violations of any
4 city ordinances. Any vacancy in the office of police judge shall be
5 filled by appointment by the mayor.

Sec. 90. No ordinance passed by the city council shall take
2 effect until ten days after its final passage and one publication of
3 the caption of title thereof, only, shall be made at some time during
4 said ten days in some newspaper circulated in said city, except an
5 ordinance necessary for the immediate preservation of the public
6 health or public safety. Such caption or title shall distinctly state
7 the full purport of the ordinance so passed and printed.

Sec. 91. The health commissioner shall be a physician of good
2 standing in his profession. It shall be his duty to administer to
3 all charity cases that he may, in his discretion, deem deserving.
4 He shall, in conjunction with the city manager, have charge of the
5 general health and sanitation of the city, and it shall be his duty to
6 carefully investigate all complaints and make a careful detailed
7 duties as the mayor, manager, or council may direct.
8 manager and council, at least once every month. He shall be ap-
9 pointed in the way and manner provided by this act and shall re-
10 ceive such salary as council may by ordinance prescribe. Nothing
11 herein, however, shall be construed as in any way way affecting
12 the police officers of the city relative to their powers and duties in
13 regard to city sanitation contained and set forth elsewhere in this
14 act.

Sec. 92. The mayor may appoint a reputable woman who shall
2 be known as police matron; and such police matron shall have all
3 the qualifications and be subject to all the provisions of chapter
4 18, of the acts of the legislature of one thousand nine hundred
5 eleven. The council of the city of Dunbar may provide a reason-
6 able salary not to exceed twelve hundred (\$1,200.00) dollars there-
7 for, and such matron shall do all of the things required by the
8 council under the provisions of said chapter eighteen, of the acts

9 of the legislature of one thousand nine hundred and eleven, and
10 any amendments thereto.

Sec. 93. The city council may make any contract for the codi-
2 fying and indexing of all the ordinances of the city, and such or-
3 dinances shall include all in force and effect up to the last day pos-
4 sible. Before such work is accepted by the council, it shall be
5 completed in every respect and the council shall then cause it to
6 be properly printed and securely bound in a permanent book. The
7 council may by ordinance adopt the code to be prepared as a whole
8 and when said ordinance adopting said code shall have been passed
9 by the council the said code shall be and become the law and or-
10 dinances of said city up to such time, according to the tenor and
11 effect thereof, and when printed in a book, the same shall be re-
12 ceived as evidence as the ordinances of said city, unless errors or
13 omissions be affirmatively shown therein, and no other publication
14 thereof shall be made or required under the charter, and the coun-
15 cil shall cause all the ordinances of said city, by printing a supple-
16 ment thereof, or otherwise, to be brought up to date within a rea-
17 sonable time after the printing of such ordinances, and in any
18 event such supplement shall be printed, or, if necessary, a new
19 copy of the ordinances shall be printed, at least once every four
20 years; and the council shall cause such number of said books of
21 the ordinances to be printed and sell such number thereof at such
22 prices as may be reasonable, and the number of books printed shall
23 be fixed by the council.

Sec. 94. It shall be the duty of the city of Dunbar to provide
2 suitable and proper places for the burial of the dead, which
3 places may be in or out of the corporate limits of the city. The
4 city shall cause such places to be laid off into cemetery lots in a
5 reasonable and proper way and shall sell said lots for a reasonable
6 price; but it may take into consideration the location of each of
7 said lots in fixing the prices therefor. The city council shall have
8 all the powers and rights of condemnation of any real estate that
9 it may wish for such purpose in the manner provided by law, and
10 it may acquire by means of condemnation any real estate which
11 has already been laid out as a cemetery by any person association
12 or corporation.

13 No burials of the bodies of deceased persons shall hereafter be
14 permitted within the incorporated limits of the city of Dunbar or
15 in any cemetery owned by said city within the space

16 of one mile of such incorporated limits, unless the
17 permission of said city shall be first had and obtained, and the
18 city of Dunbar, through its proper authorities, shall have power
19 to pass all proper ordinances providing suitable penalties to carry
20 out the powers here given said city.

21 No moneys received from the sale of lots in any cemetery so
22 owned, or hereafter owned, by said city shall be used for any other
23 purpose than the proper care and preparation of the ground, up-
24 keep and expenses of said cemetery, the roads and ways to and
25 through the same and for the purchase of additional property
26 for cemetery purposes. *Provided, however,* that nothing herein
27 contained shall in any wise affect any person, firm or corporation
28 now lawfully engaged in the sale of cemetery lots, unless such
29 property be acquired by the city through purchase or condem-
30 nation.

Sec. 95. The building inspector shall be a competent person
2 for the duties of his office. He shall not, during his term of office
3 be engaged in or interested in the building business in any way or
4 manner. The council shall by ordinance fix a proper salary for
5 him. He shall see that the ordinances of the city and laws of the
6 state concerning building are enforced, and perform such other
7 duties as the mayor, manager, or council may direct.

Sec. 96. The council shall have power to buy, sell, or exchange
2 any real estate found necessary or convenient in the opening, con-
3 struction, straightening, widening, or otherwise altering of any
4 street, alley, or public way within the city; and by resolution and
5 proper deed to convey to any person, firm, or corporation any land
6 used or heretofore or hereafter used, for street or other public
7 purpose, when, in the judgment of the council such land shall be
8 no longer needed for such public use.

Sec. 97. This act shall become effective from the passage
2 hereof.

Sec. 98. All acts, or parts of acts, inconsistent with the provis-
2 ions of this act are hereby repealed.

House Bill No. 164

(House Bill No. 164—Mr. Baker.)

AN ACT to amend and re-enact sections two, ten and twenty-eight,
of chapter thirty-one of the acts of one thousand nine hundred

and eleven, as amended by the acts of one thousand nine hundred and fifteen, relating to the corporate limits of the city of Elkins; the qualification and registration of voters; the powers and duties of the common council; liens for taxes, assessments, re-assessments, etc., for and within said city of Elkins.

Be it enacted by the Legislature of West Virginia:

That sections two, ten and twenty-eight of chapter eighty-one of the acts of one thousand nine hundred and eleven, as amended by chapter twelve of the acts of one thousand nine hundred and fifteen, relating to the charter of the city of Elkins, be amended and re-enacted so as to read as follows:

Section 2. Beginning at the southern abutment of bridge 2 number two of the Western Maryland railway across the Tygarts 3 Valley river, on its Huttonsville branch, being the bridge of said 4 railway situated about one thousand feet south of the juncture 5 of the Belington extension and Huttonsville branch of said rail- 6 way, and running thence down said Tygarts Valley river on the 7 east bank thereof to a stone the southwest corner of the Davis and 8 Elkins College property; thence with six lines thereof S. 60 E. 9 478.5 feet to a white oak; N. 47.30 E. 316.8 feet to a stone; N. 10 48 E. 268.6 feet to a white oak; N. 59 E. 255.5 feet to a stone; 11 N. 21.30 E. 115.5 feet to a stone; N. 68 E. 328 feet to a stone 12 in the west lines of the Beverly and Fairmont Pike; thence with 13 the western line of said pike in a northerly direction 489 feet to 14 a stake; thence N. 62.15 E. 582 feet to a small oak tree; thence 15 N. 38.55 E. 1405 feet to a small oak; thence N. 19.15 E. 957 16 feet to the Woolwine run; thence S. 58 E. 1885 feet to a post in 17 the line between Woolwine and Taylor 40 feet southeast of Jud- 18 son Goddin's corner; thence N. 17 E. 900 feet to a stone, corner 19 to Weese, Woolwine and Taylor; thence N. 26 W. 2662 feet to 20 the southeastern corner of the reservoir lot on the top of Weese 21 hill; thence with the back line of said reservoir lot to the northern 22 corner thereof; the same being an oak; thence by a straight line 23 to a point where the Buffalo and Leading creek pike crosses 24 Cravens run; thence by a straight line to the nearest corner of 25 Maplewood cemetery; thence with the line of said cemetery on the 26 northern boundary thereof to the northwestern corner of the new 27 addition to said cemetery; thence by a straight line due west to 28 a stake in the elongation of Isaac Scott's eastern line; thence with

29 said line S. 13.45 W. to a large chestnut, a corner of said Scott's
30 land; thence with another line of said Scott's land S. 24.30 W.
31 1333.7 feet to the western line of Harrison avenue; thence with
32 the western line of said avenue S. 77 E. 201.8 feet to a stake;
33 thence S. 25 W. 1024.5 feet to a stake; thence S. 65 E. 166 feet
34 to the western line of Robert E. Lee avenue; thence with wes-
35 tern line of said avenue; S. 25 W. 690 feet to a stake standing N.
36 65 W. 30 feet from a stone monument; thence S. 14.40 W. 940
37 feet to the river; thence with a straight line to the beginning.

Sec. 10. Every person residing in said city who has attained
2 the age of twenty-one years and who has been a resident of this
3 state for one year and of said city for four months next pre-
4 ceding any election, and who is not of unsound mind, or a
5 pauper, or under conviction of treason, felony or bribery in an
6 election, shall be entitled to vote at any municipal election of
7 said city, *provided* he is registered in the ward or precinct of
8 said city in which he resides, as herein provided.

9 The clerk of said city shall act as registrar of voters for all
10 municipal elections to be held within said city both general and
11 special, and before proceeding to register any of the voters of
12 said city he shall take an oath to support the constitution of the
13 United States, the constitution of West Virginia, and to perform
14 the duties of registrar for said city to the best of his ability.
15 Said oath shall be filed and preserved by said clerk among the
16 official records of his office. For his services as such registrar,
17 said clerk shall receive such compensation as may be determined
18 by the city council.

19 The city council shall cause to be prepared suitable books
20 and blanks for the registration of voters. Such books shall be
21 so arranged as to admit of the alphabetical classification of the
22 electors, ruled in parallel columns, on which shall be entered
23 *first*, the name of the person registered; *second*, age; *third*, place
24 of birth; *fourth*, place of residence in precinct; *fifth*, time of
25 residence in precinct; and *sixth*, if naturalized, the date of the
26 papers, and the court by which issued. Two of such books shall
27 be furnished to and filled out by the clerk for each of the pre-
28 cincts or wards of said city.

29 After causing to be published, in two newspapers of opposite
30 politics of said city, a notice containing the dates upon which he
31 shall start to register and complete the registration of voters,

32 and the hours of registration, the said clerk shall, on Tuesday
33 of the sixth week, prior to any election, at the office of the mayor
34 of said city, proceed to register such of the voters of said city
35 as make application in person to him for registration in the
36 registration books for the precinct or wards in which such voters
37 have legal residence, and shall continue such registration until
38 and including Tuesday in the second week prior to such election.
39 It shall be the duty of said clerk during such period to keep
40 said mayor's office open as a place for the registration of voters
41 from eight o'clock A. M., until noon, and from one o'clock, P. M.
42 until six o'clock, P. M., each day, and during the last week of
43 such period, he shall also keep said office open from half past
44 seven o'clock P. M. until half past nine o'clock P. M., each day.
45 The notice of registration herein provided shall be pub-
46 lished once during the week preceding such registration,
47 and once each week during said registration period, in the news-
48 papers as aforesaid.

49 No person shall be registered as an elector at any other time
50 or place than in this section designated; and in making regis-
51 tration, every applicant shall answer the inquiries made by the
52 said clerk, having openly and publicly prepared for such regis-
53 tration at the time and place herein appointed, shall proceed
54 as follows:

55 *First.* He shall receive the application for registration of all
56 such persons, residents in the city, as then are, or on the day of
57 election which will next follow, be entitled to vote therein, and
58 who shall personally come before him, and such only. Said clerk
59 may, and if the right of the applicant to be registered be chal-
60 lenged by an elector, shall, administer the following oath, to-
61 wit: "You solemnly swear (or affirm) that you will truly and
62 fully answer such questions as may be put to you touching your
63 place of residence, birth, qualifications as an elector, and your
64 right as such to be registered and to vote under the laws of
65 this state."

66 *Second.* He shall then examine each applicant as to his
67 residence and qualifications as an elector, and for that purpose
68 may propound the following questions:

69 (a) Are you a citizen of the United States?

70 (b) Are you a native or naturalized citizen? (If the per-
71 son offering to be registered claims to be a naturalized citizen

72 of the United States he shall produce, for the inspection of the
73 clerk, a certificate or other evidence of his naturalization, and
74 also state under oath that he is the identical person named
75 therein; but the production of the certificate shall not be re-
76 quired if the person offering to be registered shall state, under
77 oath, when and where he was naturalized, that he has had a
78 certificate of naturalization, and that against his will the same is
79 lost, destroyed, or beyond his power to produce, or if he states
80 under oath that by reason of the naturalization of his parents,
81 or one of them, he has become a citizen of the United States, and
82 where or when his parents were naturalized.)

83 (c) Will you have resided in this state for one year imme-
84 diately preceding the coming election?

85 (d) Have you been absent from this state within the year
86 immediately preceding the coming election; if so, when?

87 (e) When you left this state did you leave for a temporary
88 purpose with the intention of returning, or for the purpose of
89 remaining away?

90 (f) Did you while absent look upon this state and regard it
91 as your home?

92 (g) Did you while absent vote in any other state?

93 (h) Will you have resided in the city for four months prior
94 to the coming election?

95 (i) When you came to this city did you come for a temporary
96 purpose or for the purpose of making it your home?

97 (j) Did you come into this city for the mere purpose of
98 voting?

99 (k) Did you move into the precinct in which you now reside
100 for the mere purpose of voting in it?

101 (l) Are you an actual resident of that precinct, if so, state
102 the location of your residence?

103 (m) Are you twenty-one years of age, or will you be so at
104 the coming election, to the best of your knowledge and belief?

105 (n) What is your age?

106 Every person shall be registered who will be entitled to vote
107 at the first election after the registration by reason of his arriv-
108 ing at twenty-one years of age before the time or by reason of his
109 having resided for a sufficient length of time in the state and
110 municipality, *provided*, he is otherwise qualified.

111 The clerk shall then, in the presence of the applicant, enter
112 in the registrars, his answers to the questions pertinent to the
113 headings of each column, in their order. In entering his num-
114 ber, the numbers shall be filled up consecutively, leaving no
115 blanks, and in names they shall include his christian name or
116 names in full as well as his surname. In the column as to "resi-
117 dence", shall be stated the name of the street, avenue or alley
118 or way in which his dwelling is located or access to the same is
119 usually had, and the number of the house if it has one. If it
120 has no number, a definite description by which it can be easily
121 found must in every case be given and entered. If there be more
122 houses than one under the number given, or if there be other fam-
123 ilies, tenants or lodgers, in that in which the applicant resides,
124 he must specify in which house, and on which floor, and whether
125 front or rear of such house he resides, and the number or loca-
126 tion of his tenement. In the column as to age, the years and
127 months must be stated, and if the applicant is not at the time
128 twenty-one years of age or more, the words "not of age" must
129 be inserted in the column of remarks. In the column as to
130 "term of residence" the period of the years and months of his
131 residence in the precinct and state must both be stated. In the
132 column as to "naturalization," the answer "yes" or "no" must be
133 given and stated. The column as to "date of registration" must
134 be filled with the date on which the application was actually
135 registered, and none other.

136 The statement of the applicant must be entered by the clerk
137 in both registrars for the precinct in which the applicant resides,
138 and both shall be signed by the applicant. Signatures, when
139 made by mark, must be attested by at least one subscribing wit-
140 ness, who shall be an elector, and the witness may be examined
141 by the clerk under oath as to his knowledge of the person thus
142 attested, and in such case noted by the clerk on the registrars as
143 "sworn" or "affirmed", as the case may be.

144 *Third.* Any elector of said municipality who is absent
145 therefrom, and more than thirty miles distant from such
146 municipality, may appear before the judge or any clerk of any
147 court of record, or notary public, or, if in a foreign country,
148 before any minister, consul or vice-consul of the United States,
149 and make and subscribe an affidavit as to his residence, specify-
150 ing in what ward or precinct he resides, and that he will be

151 necessarily and unavoidably absent from such municipality on
152 all the days allowed or appointed by this chapter for the general
153 registration of electors, and answering and setting forth accu-
154 ately each and all the matters herein required to be set forth in
155 the register of electors, and forward such affidavit, duly authen-
156 ticated, addressed to "municipal clerk" of such municipality. If
157 received by such municipal clerk, it shall entitle such applicant
158 to be entered by said clerk in the proper registers of such pre-
159 cinct; and in place of the signature of such elector, the word
160 "affidavit" shall be inserted, and no further registration of such
161 applicant shall be necessary. Such affidavit shall be filed and
162 preserved by the clerk in his office. But no such affidavit shall
163 be accepted unless the officer before whom it is made shall
164 certify that the affiant is personally known to him to be the
165 person whom he represents himself to be, or proves so to be
166 by a credible person known to him, and whose full name and
167 address must be stated in the certificates; *provided*, that in any
168 case where the application for registration is thus made by
169 affidavit forwarded by mail, if the municipal clerk is not satis-
170 fied that the applicant is a resident of the precinct specified,
171 or that he will be entitled to vote at the next election, the word
172 "challenged" shall be entered in the register opposite his name in
173 the column for remarks, and such affidavit shall be transmitted
174 to the judges of election, and such applicant, if he applies to
175 vote, shall be required to establish his residence and qualifica-
176 tion before voting.

177 Any voter who shall have been registered in any precinct as
178 hereinbefore provided, and shall have removed from such pre-
179 cinct to another precinct within the municipality, may obtain
180 a certificate of transfer from the city clerk and present the
181 same to the commissioners of election of the precinct wherein
182 he resides; and if the commissioners of election be satisfied
183 that such person has a legal residence in the precinct wherein
184 he offers to vote, they shall register such elector and allow him to
185 vote. When such certificate is issued by the clerk, the name of
186 the elector shall be stricken by him from the books from which
187 such certificate is issued, and the words "transferred" be written
188 opposite his name.

189 *Fourth.* On Tuesday of the first week prior to any election,
190 it shall be the duty of the council of said city to meet in special

191 session as a general registration board for the following pur-
192 poses:

193 (a) To examine all the registration books pertaining to
194 the general registration of the municipality.

195 (b) To permit registration of electors who were unable to
196 procure registration on the days hereinbefore provided because
197 of sickness or absence from the city and not within reach of
198 any person before whom the affidavit for registration herein
199 provided could be made.

200 (c) To hear and determine the qualifications of electors
201 whose names have been entered upon the registration books and
202 who shall appear not to be entitled to vote; and if said council
203 be satisfied that persons have been registered who are not en-
204 titled to vote they shall cause such names to be stricken from
205 the list of voters; but in no case shall the council erase the name
206 of any voter until he shall have due notice of the time and place
207 of taking evidence to prove his qualification, which evidence
208 he shall have the right to rebut, and shall have his name restored
209 to such list if improperly stricken therefrom.

210 (d) To approve said registration books and attest the same
211 as being correct and a true list of the qualified voters of the
212 respective precincts described in said municipality.

213 The municipal clerk shall furnish one complete copy of regis-
214 tration to the election commissioners of the respective pre-
215 cincts with the ballot boxes and other election supplies for use
216 by them in conducting the election in said voting precinct.

217 All registers when not in official use of the clerk, the city
218 council and the commissioners of election, shall at all times be
219 deposited and locked up in the office of the city clerk, subject
220 to be produced by him for public inspection at all times.

221 If the said clerk shall wilfully and maliciously register the
222 name of any person not a qualified voter of any election pre-
223 cinct, or reject from registration the name of any qualified
224 voter of any precinct, contrary to the provisions of this chapter,
225 he shall be deemed guilty of a felony and upon conviction
226 thereof shall be confined in the state penitentiary not less than
227 one nor more than five years; or confined in the county jail not
228 more than twelve months, or fined not less than fifty nor more
229 than five hundred dollars, at the discretion of the court.

230 No person shall be allowed to vote in any election hereafter
231 held in the city of Elkins unless he shall have been registered
232 as herein provided; and the commissioners of every election
233 shall allow only those to vote whose names appear on the regis-
234 tration books returned by the clerk of said city; and any com-
235 missioner who shall wilfully violate any of the provisions of this
236 chapter shall be deemed guilty of a felony and upon conviction
237 thereof shall be confined in the state penitentiary not less than
238 one nor more than five years, or confined in the county jail not
239 more than twelve months, or fined not less than fifty dollars nor
240 more than one hundred dollars, or imprisoned not less than ten
241 nor more than ninety days in the county jail, or both, at the
242 discretion of the court, for every offense.

243 The commissioners of election, within three days after any
244 election, shall return the registration books of such election
245 precinct, together with the ballot boxes, ballots, etc., to the
246 municipal clerk, taking his receipt therefor. Any failure to do
247 so shall be deemed a misdemeanor, and the offender, upon con-
248 viction, shall be fined not less than twenty-five nor more than
249 one hundred dollars, and in addition thereto may be confined
250 in the county jail for a period of thirty days, at the discretion of
251 the court.

252 If for any reason the city clerk of said municipality is dis-
253 qualified or unable to act as registrar for the whole or any part
254 of the period allowed for the registration of the voters in this
255 section, it shall be the duty of the council to appoint some elector
256 of said city who shall act as registrar during such time as the
257 clerk is disqualified or unable to act as such registrar. Such
258 elector shall immediately qualify as registrar by taking the same
259 oath, and shall perform the same duties, and be liable to the
260 same penalties for breach of duty as herein provided for said
261 clerk in acting as such registrar.

262 *Provided, further, that notwithstanding any of the herein-*
263 *before provisions of this section, the city clerk, or person acting*
264 *in his stead, shall transfer from the last registration books all*
265 *of the names appearing thereon to the new registration book*
266 *without it being necessary for said voters to appear and be reg-*
267 *istered as herein provided, but in making said transfer the*
268 *said clerk shall omit and not transfer the name of any person*
269 *whom he knows to have ceased to be a qualified voter within*

270 the city of Elkins. But if any name is so dropped or not trans-
271 ferred of any person who is in fact a qualified voter, and that fact
272 is proven to the commissioners of election, and such voter's
273 name was in fact on the old registration books next prior to the
274 registration books for the election then being held, then said com-
275 missioners shall permit such person to vote and enter his name
276 on the new registration books. *Provided, further, that in all*
277 cases herein wherein anything is required to be done within a
278 certain time, or notice to be given for a certain length of time,
279 if the election is a special election, the council may modify
280 the time specified herein so as to meet the necessities of the case.

Sec. 28. The council of said city shall have the following gen-

2 eral powers, and may provide by ordinance and resolutions for the
3 exercise and enforcement of the same, namely:

4 To lay off, open, close, vacate or maintain public grounds,
5 parks and public places, and name and re-name the same.

6 To regulate the planting, trimming and preservation of shade
7 trees by persons and corporations in streets, alleys, roads, public
8 grounds and places, and to provide for the planting, removal,
9 trimming and preservation of such trees and other ornamental
10 shrubbery by the municipality.

11 To declare as public nuisances any trees, shrubbery, etc.,
12 growing on private property within said city, the roots of which
13 clog or choke any public sewer belonging to said city, or dam-
14 age the streets or sidewalks of said city, and provide for the
15 removal or destruction of said trees or shrubbery.

16 To establish, maintain and regulate free public libraries and
17 reading rooms, and to purchase books, papers, maps, and manu-
18 scripts therefor, and receive donations and bequests of money
19 or property for the same, in trust or otherwise, and to provide
20 for the rent and compensation for the use of any existing free
21 public libraries established or managed by private corporations
22 or associations organized for that purpose.

23 To protect divine worship in or about the premises where held.
24 To locate, lay off, close, open, alter, grade, straighten, widen,
25 narrow, vacate, pave, repave, construct and keep in repair
26 bridges, viaducts, under-grade crossings, roads, streets, alleys,
27 sidewalks, cross-walks, drains and gutters for the use of the
28 public, or any of the citizens thereof; and to improve and light
29 the same, and keep them clean and free from obstruction on or

30 over them; *provided*, the municipality shall not be liable for
31 or respond in damages for injury to persons or property caused
32 by or from a defect or obstruction in or on the plat of ground
33 between the gutter or curb of any street and the paved or plank
34 sidewalk extending there along, or between any such sidewalks
35 and the property lying next adjacent thereto, unless the muni-
36 cipality had actual notice of such defect or obstruction prior to
37 the time of the injury complained of.

38 To enter into a contract with any internal improvement com-
39 pany for the joint ownership of any bridge erected by the
40 municipality and such improvement company, upon such terms
41 as may be prescribed in the contract between them, but such
42 bridge or bridges shall be in a public highway and the interest
43 of the company shall only be such proportionate part thereof
44-45 as it may pay for, or that may be named in the contract.

46 To regulate the width of sidewalks and streets, and the width
47 and care of public grounds or grass plots abutting thereon, and
48 to order the sidewalks, footways, cross-walks, drains and gutters
49 to be curbed and paved, or repaved and kept in good order,
50 free and clean, and to provide for the removal of ice and snow
51 therefrom and for sprinkling the same, by the owners or occu-
52 pants of the real estate next adjacent thereto.

53 To regulate the use of walks, highways and bridges and the
54 rate of speed or travel thereon, and to prevent and punish for
55 fast driving or riding thereon of any horse, bicycle, wheeled
56 vehicle, wagon, steam or electric or traction engine, motor car
57 or automobile, and to prevent injury to or waste on such streets,
58 alleys, roads or highways from overloaded or improperly loaded
59 vehicles, and to regulate the speed of engines, trains or street
60 cars, within the corporate limits and to require the employment
61 of conductors on all such street cars.

62 To regulate the making of division fences and party walls
63 by the owners of adjoining and adjacent premises and lots, and
64 to regulate or require drainage by the owner of such lots or
65 other real-estate by the proper drains, ditches and sewers, and
66 to fill and cause to be filled any lot below the established eleva-
67 tion or grade.

68 To regulate or prohibit street carnivals, street fairs, or street
69 parades, advertising exhibitions or other exhibitions thereon,
70 or the exhibition of natural or artificial curiosities thereon.

71 To regulate or prohibit the ringing of bells, blowing of steam
72 whistles, or use of hand organs or other musical instruments
73 of an annoying character or other music of itinerant performers
74 in the streets, roads, parks or public places of the municipality.

75 To license, regulate or prohibit auctioneering.

76 To license or prohibit the sale of goods, wares, merchandise,
77 drugs or medicines on the streets or other public places.

78 To impose a license tax on persons keeping for hire automo-
79 biles, carriages, hacks, buggies, wagons or for carrying for hire
80 persons or baggage in such vehicles, and to regulate the charge
81 for such services within the corporate limits of said city.

82 To regulate the operation of automobiles and other vehicles
83 within said city, and to that end it shall have power to pro-
84 hibit any person from driving or operating any automobile or
85 other vehicle on the streets and alleys of said city, when in
86 the opinion of said council, such person is not qualified to drive
87 or operate the same.

88 To establish and regulate hack stands and stands for auto-
89 mobiles, coaches, cabs and omnibuses kept on the streets for hire.

90 To regulate, assess and collect license fees for the use of the
91 municipality on anything, or business, for which the said li-
92 cense is required; and shall have power and authority, in its
93 discretion, to reject and refuse to grant any such licenses, and
94 shall have power to revoke any such license for good cause after
95 the same has been granted; and no other license shall authorize
96 the doing of any such thing or conduct of any such business
97 without said municipal license having been obtained as herein
98 provided. *Provided, further,* that where the council prohibits
99 the exercise of anything within the corporate limits, requir-
100 ing a license therefor as herein provided, then it shall have
101 authority to prohibit the exercise of any such thing within
102 one mile of the corporate limits of said city, and for that purpose
103 the police authority of the city shall extend for one mile be-
104 yond the corporate limits so as to enforce this provision.

105 To establish, locate and keep in repair market places and
106 market houses, and regulate markets, prescribe the time for
107 holding the same and to authorize the seizure thereof and des-
108 truction of any and all such foods and drink products as shall
109 be found unwholesome, dangerous or offensive, and without re-
110 course against the municipality for its cost or value.

111 To regulate the sale of all food or drink products, milk,
112 fresh meats, fish and vegetables, and provide for inspection of
113 the same.

114 To appoint market masters and invest them with power to
115 make arrests for the violation of the municipal ordinances or
116 regulations.

117 To regulate and provide for the weighing of hay, coal, and
118 other articles for sale in the markets.

119 To prevent injury or annoyance to the public or individuals
120 from anything dangerous, offensive or unwholesome, and to
121 prevent and regulate the distribution by canvassers, agents or
122 other persons of sample packages of drugs, medicine, powders,
123 paint, or other articles which may be dangerous or unwholesome
124 for children.

125 To regulate or prohibit the keeping, handling and transporta-
126 tion of explosives and dangerous combustibles within the mu-
127 nicipality.

128 To regulate or prohibit the erection or maintenauce of, in
129 what council deems an improper locality within the municipal-
130 ity, any blacksmith shop, livery stable, cow house, cattle pen,
131 poultry house, pig pen, privy, bill board, sign board, gas or other
132 engine, or the use of walls and walks for signs, and to abate by
133 summary proceedings whatever in the opinion of the council is
134 a nuisance.

135 To regulate or prohibit the distribution of hand-bills, cir-
136 culars and other advertisements of like kind on the streets,
137 roads, alleys and public places, or in private yards or buildings,
138 without first having procured the consent of the owner or oc-
139 cupier thereof.

140 To prohibit, within the municipality or within one mile
141 of its corporate limits, the erection or maintenance of any
142 slaughter house, soap factory, glue factory, lampblack factory,
143 tannery or other house, shop or factory, of like kind or char-
144 acter.

145 To establish, regulate and maintain baths and bath houses,
146 drinking fountains, water troughs and public toilet stations
147 and free public band concerts, and to regulate the time and place
148 of bathing in pools, streams and public waters within the police
149 jurisdiction of the municipal corporation.

150 To prevent hogs, cattle, sheep, horses and other animals and

151 fowls of all kinds from going at large in the municipality and
152 to establish and maintain places for their detention; to make
153 regulations respecting the keeping and sale of same, and to ap-
154 point a pound master and define his duties.

155 To arrest, convict and punish any person for keeping an as-
156 signation house, house of ill-fame, or for leasing or letting to
157 another person any house or other building for the purpose of
158 being used or kept as an assignation house or house of ill-fame,
159 or for knowingly permitting any house owned by him or under
160 his control to be used as an assignation house or house of ill-
161 fame; or loafing, boarding, or loitering in a house of ill-fame
162 or frequenting the same. And no such house shall be kept or
163 leased as herein provided within one mile of the corporate lim-
164 its of said city of Elkins, and for the purpose of enforcing this
165 provision the police powers of said city shall extend to one mile
166 beyond the corporate limits of said city.

167 To arrest, convict and punish any person for importing, print-
168 ing, publishing, selling or distributing any book, picture or de-
169 vice, or other thing containing obscene language or picture, or
170 making indecent representations.

171 To restrain and punish vagrants, mendicants, beggars, tramps,
172 common prostitutes and their associates, and drunken and dis-
173 orderly persons within the municipality, and to provide for
174 their arrest and manner of punishment.

175 To establish a board of health and invest it with the neces-
176 sary power to attain its object.

177 To establish quarantine and to erect and maintain pest houses
178 and places of detention, and to make and enforce necessary
179 orders for controlling or preventing the spread of infectious
180 and contagious diseases, and for abating pestilence.

181 To prohibit and punish by fine the bringing into the cor-
182 porate limits by railroads or other carriers, persons who are
183 paupers, or persons afflicted with contagious diseases, or to
184 punish by fine, or by fine and imprisonment, any persons so
185 bringing within the corporate limits such pauper or diseased
186 person.

187 To provide for the poor of the municipality, and to that
188 end the municipality may contract with the county court of
189 Randolph county for keeping such poor at the county poor house

190 at a price and on such terms as may be agreed upon between
191 the county court and such municipal authorities.

192 To authorize the taking up and provide for the safe keeping
193 and education, for such periods of time as may be deemed ex-
194 peditent, of all children who are destitute or are without proper
195 parental or other care and who are growing up in mendicancy,
196 ignorance, idleness or vice.

197 To arrest, convict and punish any person for cruelty, un-
198 necessarily or needlessly beating, torturing, mutilating, kill-
199 ing or overloading, overdriving or wilfully depriving of neces-
200 sary sustenance, any horse or other domestic animal.

201 To restrain fraudulent practices within the municipality.

202 To arrest, convict, and punish any person for gambling or
203 keeping any gaming table, commonly called faro bank, table
204 and chips used in playing such game; crap table or chips used
205 in playing such game; or roulette or the wheel or chips used in
206 playing such game; or keno table or table of like kind or device
207 used in playing the same; or table of like kind under any de-
208 nomination, whether the game or games be played with cards,
209 dice or otherwise, or any person who shall be a partner, or
210 concerned in interest in the keeping or exhibiting of such gaming
211 table, faro bank table, or chips, roulette table or chips, crap
212 table or chips, keno table or devices, or keeping or maintaining
213 any gambling house or place, or betting or gambling for money
214 or anything of value, and to destroy such gambling parapher-
215 nalia as may be found in use on any such premises.

216 To restrain all felons and persons guilty of offense against
217 this state or the United States and deliver them over to the
218 authorities or court having jurisdiction of the offense whereof
219 such person is accused.

220 To apprehend and punish any person who, without a state
221 license therefor, is guilty of carrying about his person within
222 the municipality any revolver or other pistol, dirk, bowie knife,
223 slungshot, razor, billy, metallic or other false knuckles, or any
224 other dangerous or deadly weapons of like kind and character,
225 as provided by chapter fifty-one of the acts of the legislature
226 of one thousand nine hundred and nine, and the punishment
227 therefor, whether for the first or other offense, shall be that
228 prescribed by said chapter for any such person guilty under
229 the misdemeanor clause provided therein; but the place of con-

230 finement of such guilty person may be in the jail or lockup of
231 the municipality, in lieu of the county jail; *provided*, that the
232 mayor of the municipality or other person exercising the func-
233 tions of his office, may, in his discretion, decline to inflict the
234 punishment herein mentioned, and instead thereof may re-
235 quire or hold such guilty person to answer an indictment by
236 the grand jury of Randolph county for the violation of such
237 law; and it shall be the duty of the prosecuting attorney of
238 said county, when requested by the mayor of the municipality,
239 to appear and prosecute such offending person before such
240 mayor; *provided, further*, that regularly appointed police offi-
241 cers of the municipality, whose services are rendered to and
242 paid for by the municipality, shall not be required to give bond,
243 or any bond provided by said chapter fifty-one of the acts of
244 the legislature of one thousand nine hundred and nine.

245 To provide in or near the corporate limits of the munici-
246 pality a cemetery or other place for the burial of the dead,
247 and to regulate interments therein, and to guard and police
248 the same, and to provide for the cremation and incineration
249 of dead human bodies when from the nature of the malady or
250 pestilence from which death ensued, the municipal board of
251 health may direct.

252 To regulate the erection, construction, alteration and repair
253 of dwelling houses, buildings and other structures within the
254 municipality and to compel the numbering of the same by the
255 owners or occupants thereof.

256 To regulate by license and otherwise, plumbers, electricians,
257 sewer tappers and vault cleaners.

258 To regulate the hanging of doors and construction of stair-
259 ways, elevators and fire escapes in theatres, churches, school
260 buildings, factories and other places where many persons are
261 received at one time, and to require the construction of fire
262 escapes in such buildings.

263 To establish fire limits, and to regulate the construction of
264 buildings and designate material to be used in the construction
265 of buildings within such limits.

266 To regulate the building of fire walls, fire places, chimneys,
267 boilers, smoke stacks and stove pipes.

268 To take down and remove, or make safe and secure, any and
269 all buildings hereafter erected and require the alteration and

270 repair of any by the owners thereof, that are or may become
271 dangerous, or to require the owners or the agents to take down
272 and remove them or put them in a safe and sound condition at
273 their own expense.

274 To regulate the height, construction and inspection of all
275 new buildings hereafter erected, and the alteration and repair
276 of any buildings now or hereafter erected in the municipality;
277 and to require permits to be obtained of the municipality for
278 such buildings and structures, and the repair and alteration
279 thereof, and that plans and specifications thereof be submitted
280 to the council or some person designated by it.

281 To regulate the limits within which it shall be lawful to
282 erect any steps, porticos, bay windows, bow windows, show win-
283 dows, awnings, signs, columns, piers, or other projection, or
284 structural ornaments of any kind for the houses or buildings
285 on any street.

286 To provide for the prevention and extinguishment of fires,
287 and for this purpose to organize, equip and govern fire com-
288 panies, and to prescribe the powers and duties of such com-
289 panies and department, and of the several officers thereof; and
290 to impose on those who fail to obey any lawful command of
291 the officers in charge of such company any penalty which the
292 council is authorized to impose for the violation of an ordinance;
293 and to give authority to such fire officer to direct the pulling
294 down of any building or the destruction of any fence, wall,
295 building or other thing, if such officer deem it necessary to
296 prevent the spreading of fire.

297 To protect the persons and property within the corporate
298 limits, and to preserve the peace and good order therein; and
299 for this purpose to appoint, when necessary, a police force and
300 such other officers as may be deemed necessary.

301 To prescribe the powers and define the duties of the officers
302 appointed under corporate authority, fix their term of service
303 and compensation, if not otherwise prescribed in this chapter,
304 and to require and take from them bonds, when deemed neces-
305 sary, payable to the state of West Virginia, or the city of El-
306 kins, with such securities and in such penalties as may be pre-
307 scribed, conditioned for the faithful discharge of their duties.

308 To erect, authorize and prohibit the erection of powder plants,
309 heating plants, gas works, electric light works or water works

310 in the municipality, and to erect, purchase, own or lease and
311 maintain within or without the corporate limits of the muni-
312 cipality such gas works, electric light, power works, water
313 works and reservoir to supply the municipality or its inhabitants
314 water, light, heat and power; and to prevent injury to the
315 same, or the pollution of the water, or to impair the healthful-
316 ness thereof; and may acquire land for said purposes by pur-
317 chase, lease or condemnation.

318 To grant by ordinance or franchise, for a period not exceed-
319 ing twenty-five years, the use of its streets, roads, alleys and
320 public places; to lay pipes, conduits, manholes, drains, and
321 other necessary fixtures and appliances, to be used for supply-
322 ing the municipality and its inhabitants with steam or hot
323 water, or both, for heat and power purposes, or both, or for
324 illuminating purposes; and to grant by ordinance or franchise,
325 for periods of not exceeding twenty-five years, the use of its
326 streets, roads, alleys and public places for the construction of
327 movable or rolling roads for the conveying or moving of pass-
328 engers, freight and other property; and those in charge of the
329 same, upon such terms and conditions as may be prescribed;
330 *providing*, that no ordinance granting any such franchise shall
331 become effective until approved by a vote of the people at a
332 special general election.

333 To grant by ordinance or resolution, permits for the tem-
334 porary use of its streets, roads, alleys and public places for
335 the construction of moving or rolling roads for the conveying
336 or moving of passengers, freight, vehicles, animals or other
337 property, upon such conditions as may be prescribed.

338 To provide a revenue for the municipality and appropriate
339 the same to its expense; and to cause to be assessed and col-
340 lected in each year an *ad valorem* tax within the limits of the
341 general tax laws of the state, on all property in the municipality
342 subject to state and county taxes, as valued and returned for
343 such taxation by the county assessor.

344 To levy an annual capitation tax, of not more than two
345 dollars, upon each male resident of the municipality who has
346 attained the age of twenty-one years; and from which persons
347 afflicted with bodily injury and those having attained the age
348 of fifty years shall be excepted.

349 To provide for the collection of said capitation tax at the

350 time, and in the manner as the regular capitation tax is col-
351 lected; which may be done either through the county assessor
352 or by any other person designated by the municipality; but
353 if the county assessor or other person than city assessor, he
354 shall give such bond as may be required by the council before
355 making such collection.

356 To issue and sell bonds in the manner provided by general
357 laws governing the same, and in addition to other taxes; to
358 levy for the maintenance of a sinking fund where such bonds
359 have been issued and are unpaid, and to control such sinking
360 fund and to make temporary loans thereof, or to make tem-
361 porary investments thereof, or of any specific fund for the time
362 such fund cannot be advantageously used for the purpose for
363 which it was levied and collected.

364 To provide for the rent and compensation for the use of
365 any existing free public hospital, established or managed by a
366 private association or corporation organized for that purpose.

367 To provide for the removal and abatement of nuisances, and
368 to carry out and enforce sanitary regulations.

369 To compel the attendance at public meetings of the members
370 of the council, or other body exercising their respective func-
371 tions.

372 To buy, lease and operate, either within or without the mu-
373 nicipality, stone quarries, crushers and land for said purposes,
374 for the purpose of furnishing a supply of stone or other ma-
375 terial suitable for macadamizing or paving the streets, side-
376 walks and alleys and improving public property.

377 To regulate the running of steam and electric cars over and
378 across any street or alley, and when deemed proper by the coun-
379 cil, it may by resolution require any railroad company or
380 street car company to provide at its own expense suitable watch-
381 men at any crossing of any street or alley during such hours as
382 may be designated by the council, or otherwise regulate such
383 crossings in order to protect persons walking or driving over
384 them.

385 Whenever, in the opinion and judgment of the council of the
386 municipality, it is necessary, it shall have power to construct
387 such sewers as in its opinion and judgment are needful to the
388 comfort, health, safety and welfare of the inhabitants of said
389 municipality or of the public, and may construct such sewers at

390 such places within or without the corporate limits, and in such
391 manner as in the opinion and judgment of said council may be
392 proper; but so far as practicable, shall construct such sewers
393 under the streets, alleys or roads of the city; and whenever in
394 the opinion and judgment of said council any street or alley of
395 said city should be paved or repaired with brick, or other suit-
396 able substance for paving purposes, the council may cause the
397 same to be graded, paved and constructed in such manner, as
398 in the opinion and judgment of the council is most suitable for
399 the purpose; and, whenever in the opinion and judgment of
400 the council, any sidewalk or foot-walks of stone, brick, cement
401 or other suitable substances are necessary or beneficial and for
402 the best interest of the inhabitants of said city, the council may
403 order the same to be graded and constructed in such manner
404 and of such material, as in the opinion and judgment of the
405 council, are most suitable for the purpose; and for the purpose
406 of paying the expenses and cost of any such sewer, grading,
407 paving, sidewalks or footwalks, the said council may levy a
408 special assessment for the cost thereof against the real estate
409 benefitted thereby which bounds or abuts thereon, and may
410 cause such special assessment, with interest thereon after thirty
411 days from the levying of such assessment, at the rate of six
412 per cent per annum, to be collected as city taxes are collected
413 against real estate in said city, as provided in chapter one hun-
414 dred and fifty-one of the acts of nineteen hundred and one,
415 and as provided for the collection of state taxes assessed
416 against real estate in said city; but in the case of any sewer
417 constructed under and along any street, alley or road, or in
418 case of any pavement, including grading, constructed upon
419 any street or alley, the bounding or abutting real estate on each
420 side of the street or alley shall be held liable to pay one-third
421 of the cost of such sewer and pavement, including grading,
422 and the residue of the cost thereof shall be paid out of the
423 city treasury; and in case of any sidewalks or footwalks, the
424 real estate next adjacent thereto shall be held liable to pay the
425 whole cost of such sidewalks or footwalks. *Provided*, that in
426 case of the construction of any sewer, the amount to be assessed
427 against the abutting property shall be ascertained by taking
428 one-third of the total costs of such sewer, including mains and
429 laterals on all the streets or alleys or through private property

430 which enters into such mains, and together make one complete
431 sewer line, and from one-third of the total cost and total length
432 of such sewer, the cost per foot shall be ascertained. This
433 sum shall then be multiplied by the number of feet any lot
434 abuts thereon which is liable to assessment under this act, and
435 the amount so ascertained shall be assessed against the abutting
436 property as hereinbefore provided, but no lot already having
437 sewer service shall be assessed with any portion of the cost of
438 any new sewer, unless the owner of such lot desires to connect
439 with such new sewer. And, whenever any assessments for
440 the cost of construction of any paving, including grading, on
441 any street or alley of said city, heretobefore or hereafter levied,
442 have been or may hereafter be adjudged by the council of said
443 city, or by any court of this state having jurisdiction, invalid
444 because of any error or irregularity in the mode or manner of
445 assessment, or lack of authority in said city to levy such assess-
446 ments at the time they were levied, or failure of the council
447 of said city to comply with some requirements of the law
448 relative to such assessments, or failure to procure the petition
449 of the property owners provided for in section thirty-four of
450 chapter forty-seven of the code of this state, when such peti-
451 tion was necessary to the validity of such assessments; the
452 council of said city shall have power, at any regular meeting,
453 or special meeting called for the purpose, to re-assess the cost
454 of such paving against the real estate benefitted thereby and
455 abutting thereon, in the same manner and proportion as here-
456 inbefore provided for the assessment of the cost of paving in
457 the first instance; except before proceeding to make such re-
458 assessment it shall be the duty of said council to give notice
459 to all persons interested, by publication for two successive
460 weeks in two newspapers of opposite political faith published
461 in said city, of the time and place of such meeting, and the
462 purpose thereof in relation to such re-assessment, at which meet-
463 ing, after a full hearing, the council may proceed to re-assess
464 against the real estate, as hereinbefore provided, the cost of
465 said paving, which, when so re-assessed, shall be a lien enforce-
466 able against said real estate, and shall be collectable with in-
467 terest thereon at six per cent per annum after thirty days from
468 said re-assessment, as is hereinbefore provided for the enforce-
469 ment and collection of assessments for paving generally; pro-

470 *vided*, that nothing herein shall be construed to authorize the
471 said city council to re-assess the cost of any paving which has
472 been constructed and the original assessment therefor levied for
473 more than fifteen years prior to the passage of this act; and
474 unless said city, since the construction thereof, has maintained,
475 and is still maintaining, same at its expense; *provided, further*,
476 that nothing contained herein shall be construed to authorize
477 the council of said city to re-assess, upon any real estate, the
478 cost of any paving, when the original assessment against such
479 real estate was paid by the owners thereof; and whenever any
480 part of the original assessment against any real estate was so
481 paid, the council shall re-assess against such real estate only
482 the residue of its proportionate share of the cost of said pav-
483 ing, after crediting thereon the amount so paid.

484 The said city council is hereby given full right and author-
485 ity to require any person or lot owner in said city to connect
486 a sewer leading from his or her house or lot into any public
487 sewer which is located in any public street or alley adjoining the
488 same, and, if such house or lot owner fails, or refuses so to do,
489 after having been given reasonable notice (said notice may be
490 given either to the owner of said property or the person occupy-
491 ing same, but if the owner or occupant can not be found within
492 the city limits, then notice may be given by posting the same
493 in a conspicuous place on said lot for such time as the council
494 may direct, but, if posted, the same shall not be for less than
495 ten days), said council may enter upon said lot and construct
496 such sewers and may levy the actual cost thereof against the lot
497 upon which the same is built and collect such cost from the
498 owner of such lot in the same manner as city or state taxes are
499 collected, and the cost thereof shall be a lien against said lot.

500 The council shall have the authority to pass all ordinances,
501 not repugnant to the constitution and laws of the United States
502 and of this state, which shall be necessary or proper to carry
503 into full effect and power, authority and capacity, the juris-
504 diction which is, or shall be, granted to, or vested in, the said
505 city, or in the council, or in any officer or body of officers of
506 said city; and to enforce any or all their ordinances by reason-
507 able fines and penalties; and by imprisoning the offender or
508 offenders; and upon failure to pay any fine or penalty imposed,
509 may compel the offender to labor without compensation at, and

510 upon, any of the public works or improvements undertaken, or to
511 be undertaken, by said city; or to labor at any work which the
512 said council may lawfully employ upon at such a reasonable rate
513 per diem as the council may fix, until any fines and costs, imposed
514 upon any such offender by said city have been fully paid and dis-
515 charged, after deducting reasonable charges of support while
516 in the custody of the officers of the city; *provided, however*, that
517 no fine shall be imposed exceeding one hundred dollars and
518 costs, and that no person shall be imprisoned or compelled to
519 labor as aforesaid for more than one hundred days, for any
520 one offense. And in all cases where a fine is imposed for an
521 amount exceeding ten dollars and costs, or a person be imprisoned
522 or compelled to labor as aforesaid for a term greater than ten
523 days, an appeal may be taken from such decision upon the same
524 terms and conditions that appeals are taken from the judgment
525 of a justice of this state. Such fines and penalties shall be
526 imposed and recovered, and such imprisonment inflicted and
527 enforced by, and under, the judgment of the mayor of said
528 city; or, in case of his absence or inability to act, by the clerk
529 of said city; or, if he be unable to act, then by any members of
530 the council to be appointed by the council for that purpose;
531 and for his services in trying cases, whether civil, criminal or
532 infractions of the ordinances of the city, the mayor shall be
533 entitled to receive such fees as are paid to justices of the peace
534 for similar services; but in cases of infractions of the ordin-
535 ances of the city, the mayor shall not be paid such fees unless
536 they are collected from the defendant; and, in all cases the
537 chief of police shall be entitled to receive such fees as are paid
538 to constables for similar services, except that for cases for the
539 infraction of the ordinances of the city, he shall not receive
540 such fees, unless collected from the defendant; and, *provided*
541 *further*, that the fees for making any arrest shall be one dollar,
542 to be paid to the officer making the arrest, whether such officer
543 be the chief of police or other officer, if collected from the de-
544 fendant but not otherwise.

545 I, George Henry, clerk of the city of Elkins, hereby certify
546 that the foregoing amendments to the charter of the city of
547 Elkins, were authorized by the council at a regular meeting held
548 on the sixth day of January, one thousand nine hundred and
548-a twenty-one, and the same directed to be transmitted to the legis-

549 lature of West Virginia with the request that they be enacted
550 into law.

551 Given under my hand and the seal of said city, this twelfth
552 day of January, one thousand nine hundred and twenty-one.

553

GEORGE HENRY,

554 [SEAL]

City Clerk.

House Bill No. 232

(House Bill No. 232—Mr. Deuley.)

AN ACT to amend and re-enact Section 12-a and by addition of
section 32-c of the acts of the legislature of West Virginia
passed February 16th, one thousand nine hundred and fifteen,
in reference to the charter to the city of Follansbee.

Be it enacted by the Legislature of West Virginia:

That section twelve-a of the charter of the city of Follansbee, passed
February 16th, one thousand nine hundred and fifteen, be amended
and re-enacted, and that section thirty-two-a be added thereto, to read
as follows:

Sec. 12-a. Candidates to be voted for at all general municipal
2 elections at which a mayor, city attorney, city clerk, chief of
3 police; city collector and treasurer, and councilmen from each
4 ward are to be elected under the provisions of this act, shall be
5 nominated by a primary election, (the said mayor, city attor-
6 ney, city clerk, chief of police and city collector and treas-
7 urer shall be nominated and elected at large and the said coun-
8 cilmen shall be nominated from their respective wards) and no
9 other names shall be printed upon the general ballot, except those
10 selected in the manner hereinafter prescribed.

11 The primary election for such nominations shall be held on the
12 first Tuesday in March preceding the general municipal election.
13 The judges of election shall be appointed by council for the gen-
14 eral municipal election, who shall be the judges of the primary
15 election, but said election officers shall have first been recom-
16 mended by a majority vote of all candidates at least ten days
17 preceding the said primary election and all primary and general
18 elections shall be held at the same place, so far as possible, and
19 the polls shall be opened and closed at the same hours.

20 Any person desiring to become a candidate for mayor, city at-

21 torney, city clerk, chief of police, city collector and treasurer
 22 or councilman, shall at least ten days prior to said primary elec-
 23 tion, file with the city clerk (now recorder) a statement of
 24 such candidacy, in substantially the following form:

25 State of West Virginia, Brooke county, ss:

26 I,, being first duly sworn, say that
 27 I reside at street, city of Follansbee,
 28 county of Brooke, state of West Virginia; that I am a qualified
 29 voter therein; that I am a candidate for nomination to the office
 30 of (mayor, city attorney, city clerk, chief of police, city col-
 31 lector and treasurer or councilman from first, second or third
 32 ward) to be voted upon at the primary election to be held on the
 33 Tuesday of 19....., and
 34 I hereby request that my name be printed upon the official pri-
 35 mary ballot for nomination by such primary election for such
 36 office.

37 Signed

38 Subscribed and sworn to (or affirmed) before me by

39 on this day of

40 19.....

41 Signed

42 and shall at the same time file therewith the petition of at least
 43 ten qualified voters requesting such candidacy. Each petition shall
 44 be verified by one or more persons as to the qualifications and res-
 45 idence, with street number, of each person so signing the said
 46 petition, and the said petition shall be in substantially the follow-
 47 ing form:

48 *Petition Accompanying Nominating Statement.*

49 The undersigned, duly qualified electors of the city of Follans-
 50 bee, and residing at the places set opposite our respective names
 51 hereon, do hereby request that the name of (name of candidate)
 52 be placed on the ballot as a candidate for nomination for (name
 53 of office) at the primary election to be held in said city on the
 54 Tuesday of 19..... We further
 55 state that we know him to be a qualified elector of said city and
 56 a man of good moral character, and qualified, in our judgment
 57 for the duties of such office.

58 Name of qualified Electors Number Street.

59 Immediately upon the expiration of the time of filing the state-

60 ments and petitions for candidates, the said city clerk (now re-
 61 corder) shall cause the primary ballots to be printed, authenti-
 62 cated with a fac-simile of his signature. Upon the said ballot
 63 the names of the candidates for mayor, arranged alphabetically,
 64 shall first be placed, with a square at the left of each name, im-
 65 mediately below the words "vote for one". Following these
 66 names, likewise arranged in alphabetical order, shall appear the
 67 names of the candidates for city attorney, city clerk, chief of
 68 police, city collector and treasurer, with a square at the left
 69 of each name, and below the names of such candidates shall ap-
 70 pear the words "vote for one"; following likewise arranged, shall
 71 appear the names of the candidates for councilmen in each ward
 72 with a square at the left of each name, and below the names of
 73 such candidates shall appear the words "vote for one or two", ac-
 74 cording to the number of councilmen to be elected in said ward.

75 The ballots shall be printed upon plain, substantial white pa-
 76 per and shall be headed:

77 "Candidates for nomination for mayor, city attorney, city
 78 clerk, chief of police, city collector and treasurer and coun-
 79 cilmen for the wards of the city of Follansbee, at the
 80 primary election," but shall have no party designation or mark
 81 whatever. The ballots shall be in substantially the following
 81-a form.

82 (Place a cross in the square preceding the names of the par-
 83 ties you favor as candidates for the respective offices).

84 *Official Ballot.*

85 Candidates for nomination for mayor, city attorney, city
 86 clerk, chief of police, city collector and treasurer and coun-
 87 cilmen for the ward of the city of Follansbee, at the
 88 primary election.

89	For Mayor
90	Name of candidates
91	(vote for one)
92	For City Attorney
93	Name of candidate
94	(vote for one)
95	For City Clerk
96	Name of candidate
97	(vote for one)

98 For Chief of Police
 99 Name of candidate
 100 (vote for one)
 101 For City Collector and Treasurer
 102 Name of candidates
 103 (vote for one)
 104 For Councilman
 105 Name of candidates
 106 (Vote for one or two as the case may be)
 107 Official ballot, attest.
 108 Signature, City Clerk.
 109 Judges of election shall, immediately upon the closing of the
 110 polls, count the ballots and ascertain the number of votes cast
 111 in such precinct for each candidate, and make return thereof to
 112 the city clerk before nine o'clock A. M. of the following day.
 113 On the day following said primary election the council shall can-
 114 vass said returns so received from all the polling precincts, and
 115 shall make and publish in all the newspapers of said city at least
 116 once the result thereof. Said canvass shall be publicly made.
 117 The two candidates receiving the highest number of votes for
 118 mayor, city attorney, city clerk, chief of police, city col-
 119 lector and Treasurer shall be the candidates and the only candi-
 120 dates whose names shall be placed upon the ballot for said of-
 121 fices at the next succeeding general election, and at the first elec-
 122 tion to be held under this charter, the four candidates receiving
 123 the highest number of votes for councilmen in each ward shall be
 124 the candidates and the only candidates at said first election, and
 125 at all other general elections at which said officers shall be
 126 elected, and the two candidates receiving the highest number of
 127 votes for councilmen in each ward, shall be the candidates and
 128 the only candidates whose names shall be placed upon the ballot
 129 for councilmen at such municipal election, unless there should be
 130 two members of council to elect from any of said wards, then the
 131 four candidates receiving the highest number of votes shall be
 132 placed upon the ballot for councilmen at such election. In the
 133 event of the death or resignation of a nominee before the election,
 134 the candidate receiving the next highest number of votes at the
 134-a primary shall be placed on the ticket in his stead.
 135 The ballot at such general municipal election shall be in the
 136 same general form as for such primary election, so far as ap-

137 plicable, and all elections in said city, of whatsoever kind, held
138 under this act, shall be conducted, returned and the result thereof
139 ascertained and declared in the manner prescribed by the laws of
140 the state relating to elections, insofar as they are not in con-
141 flict or inconsistent with the provisions of this act.

Sec. 32c. And the members of said Council shall receive as
2 compensation the sum of two (\$2.00) dollars for each and every
3 meeting of said common council.

House Bill No. 192

(House Bill No. 192.)

AN ACT to amend and re-enact chapter seventy-nine of the acts of the
legislature of West Virginia of one thousand nine hundred and
thirteen relating to the charter of the city of Grafton.

Be it enacted by the Legislature of West Virginia:

That chapter seventy-nine of the acts of one thousand nine hun-
dred and thirteen be amended and re-enacted so as to read as follows:

Section 1. That the inhabitants of so much of the county of Tay-
2 lor as is within the boundaries prescribed by section two of this
3 act, and their successors, shall be and remain, and they are hereby
4 made a body politic and corporate, by the name and style of "The
5 City of Grafton," and as such, and by that name may contract and
6 be contracted with, sue and be sued, plead and be impleaded, an-
7 swer and be answered unto, make purchase, take, receive, hold
8 and use goods and chattels, lands and tenements and choses in ac-
9 tion or any interest, right or estate therein, either for the proper
10 use of said city, or in trust for the benefit of any person or cor-
11 poration therein; and the same may grant, sell, convey, transfer,
12 let and assign, pledge, mortgage, charge and encumber in any case,
12-a and in any manner, in which it would be lawful for a private in-
13 dividual so to do, subject to the limitations and provisions of the
14 constitution of the state; and may have and use a common seal,
15 and alter and remove the same at pleasure; and generally shall
16 have all the rights, franchises, capacities and powers appertaining
17 to like corporations in this state, and shall have and succeed to
18 all powers, franchises and immunities, rights and privileges, which
19 were conferred upon or belonged or appertained to said city of

20 Grafton, by virtue of any act or acts of the legislature of this state
21 heretofore passed; and shall have all the rights and privileges, ca-
22 pacities and powers provided by chapter forty-seven of the code of
23 West Virginia, as contained in the edition of the year one thou-
24 sand nine hundred and six, and for which provision is not herein
25 otherwise expressly made.

Sec. 2. The corporate limits of said city shall hereafter be as
2 follows:

3 Beginning at the southeast corner of Roger's mill, thence in a
4 southerly direction to the eastern pier of the boom; thence crossing
5 the Valley river to a point of the west bank thereof, where the
6 boundary line of the former town of West Grafton intersected
7 said river, at a point near said boom; thence with the former
8 boundary line of the western portion of Grafton, formerly West
9 Grafton, to a spring in Warder's field; thence a straight line to
10 the county road at the southwestern corner of Cobb's lot; thence
11 with the county road to Amos Martin's line, corner of Beaumont
12 addition to the corner of Judkin's land; thence a straight line
13 southwesterly to three service bushes, corner to McWilliams;
14 thence a straight line to Bartlett creek, where the branch railroad
15 built to the box factory crosses said creek; thence with the mean-
16 derings of said creek to the western line of the Atlantic Refining
17 Company's tank property; thence a straight line to a chestnut on
18 the ridge in Willhide's field; thence a straight line to the Tygart
19 Valley River near three linns, corner to St. Clair and Yates;
20 thence with the last mentioned line extending to a point on the
21 opposite side of said Tygart Valley River; thence with the mean-
22 derings of said river, following low water on the eastern side there-
23 of, to a willow on the river edge, corner of the former corporation
24 of Fetterman, below the old Hoffman mill dam; thence following
25 the northerly boundaries of the former corporation of Fetterman
26 to the big spring on the northwestern turnpike; thence in a
27 straight line to the intersection of the county road and said turn-
28 pike, near the old Knotts residence; thence with the southern
29 meanderings of said turnpike to the intersection with the Grafton
30 road near the dwelling of the late John W. Blue; thence in a
31 southerly direction to the railroad bridge at the cut-off; thence
32 with the north bank of Three Fork Creek to the beginning.

Sec. 3. All general and special laws of the state of West Vir-
2 ginia, governing cities and now applicable and not inconsistent

3 with the provisions of this act, shall apply to and govern the city
4 of Grafton. All by-laws, ordinances and resolutions lawfully
5 passed and in force in the city of Grafton under its former or-
6 ganization, and not inconsistent herewith, shall remain in force
7 until altered or repealed by the commission elected under the pro-
8 visions of this act. All rights and property heretofore vested in
9 said city are continued and preserved, and no right or liability,
10 either in favor or against it, existing at the time, and no suit or
11 prosecution of any kind, shall be affected by any such change
12 unless otherwise provided for in this act.

Sec. 4. The first regular election under this act shall be held
2 on the first Tuesday after the third Monday in March, one thou-
3 sand nine hundred and twenty-three, and on the same day in every
4 year thereafter. At the first election held under this act there
5 shall be elected a commissioner of finance, whose term of office
6 shall be for one year, and also elected a commissioner of public
7 works, who shall be elected for the term of two years, and a mayor
8 who shall be elected for the term of three years. Thereafter the
9 term of office of said mayor and said two respective commissioners
10 shall be for three years. The mayor and the commissioners in
11 office when this act takes effect shall continue in said respective
12 offices until their successors are elected, as herein provided.

13 If any vacancy occur in any such office, the remaining members
14 of said commission shall appoint a person to fill such vacancy
15 during the balance of the unexpired term.

16 Said officers shall be nominated and elected at large, and shall
17 qualify, and their terms of office, except as to the two commission-
18 ers elected at the general municipal election to be held in one
19 thousand nine hundred and twenty-three as above provided, shall
20 be three years, and until their successors are elected and qualified,
21 and the term of office of all such officers shall begin the second
22 Monday after the election at which they are elected.

Sec. 5. Candidates to be voted for at all general municipal
2 elections at which a mayor or commissioner is to be elected under
3 the provisions of this act shall be nominated by a primary elec-
4 tion, and no other names shall be printed upon the general bal-
5 lot, except those selected in the manner hereinafter prescribed.
6 The primary election for such nominations shall be held on the
7 second Tuesday preceding the general municipal election. The
8 judges of election shall be appointed by the commission for the

9 general municipal election, and such judges shall be the judges
10 of the primary election, and it shall be held at the same place, so
11 far as possible, and the polls shall be opened and closed at the
12 same hours.

13 Any person desiring to become a candidate for mayor or com-
14 missioner shall, at least ten days prior to said primary election,
15 file with the city clerk a statement of such candidacy, and candi-
16 dates for commissioner shall specify whether they are candidates
17 for commissioner of finance or candidate for commissioner of
18 public works, in substantially the following form:

18-a STATE OF WEST VIRGINIA

18-b COUNTY OF TAYLOR, SS:

19 I,....., being first duly sworn, say that I
20 reside at street, city of Grafton, county of
21 Taylor, state of West Virginia; that I am a qualified voter there-
22 in; that I am a candidate for nomination to the office of (mayor
23 or commissioner) to be voted upon at the primary election to be
24 held on the.....Tuesday of.....19....., and I
25 hereby request that my name be printed upon the official primary
26 ballot for nomination by such primary election for such office.

27 (signed).....

28 Subscribed and sworn to (or affirmed) before me by.....
29 on this.....day of.....19.....

30 (signed).....

31 And shall at the same time file therewith the petition of at least
32 twenty-five qualified voters requesting such candidacy. Each
33 petition shall be verified by one or more persons as to the quali-
34 fications and residence of each of the persons so signing the said
35 petition, and the said petition shall be in substantially the fol-
36 lowing form:

37 *Petition Accompanying Nominating Statement.*

38 The undersigned, duly qualified electors of the city of Graf-
39 ton, and residing at the places set opposite our respective names
40 thereon, do hereby request that the name of (name of candidate)
41 be placed on the ballot as a candidate for nomination for (name
42 of office) at the primary election to be held in such city on the
43 Tuesday of, 19..... We further state that
44 we know him to be a qualified elector of said city and a man
45 of good moral character, and qualified in our judgment for
46 the duties of such office.

47 Name of Qualified Electors. Number Street.

48 Immediately upon the expiration of the time of filing the state-
49 ments and petitions for candidates, the said city clerk shall
50 cause to be published for three successive days in all the daily
51 papers and one time in each weekly paper published in the city,
52 in proper form, the names of the persons as they are to appear
53 upon the primary ballot; and the said clerk shall thereupon
54 cause the primary ballots to be printed, authenticated with a
55 fac-simile of his signature. Upon the said ballots the names
56 of the candidates for mayor or commissioners, arranged alpha-
57 betically, shall be placed with a square at the left of each name
58 and immediately below, the words "vote for one." The ballots
59 shall be printed upon plain, substantial white paper, and shall
60 be headed:

61 "Candidates for nomination for mayor or commissioner, as
62 the case may be, of the city of Grafton, at the primary election;"
63 but shall have no party designation or mark whatever. The
64 ballots shall be in substantially the following form:

65 (Place a cross in the square preceding the names of the
66 party you favor as candidate.)

67 *Official Primary Ballot.*

68 FOR MAYOR

69 (Names of Candidates)

70 (Vote for one)

70-a Or if a commissioner is to be elected

71 FOR COMMISSIONER

72 (Name of candidates)

73 (Vote for one)

74 Official ballot, attest:

75 Signature

City Clerk.

76 Having caused said ballot to be printed, the said city clerk
77 shall cause to be delivered at each polling place a number of
78 said ballots equal at least to twice the number of votes cast in
79 such polling precinct at the last general municipal election. The
80 persons who are qualified to vote at the general municipal elec-
81 tion shall be qualified to vote at the primary election and chal-
82 lenges can be made by not more than two persons, to be appoint-
83 ed at the time of opening the polls by the judges of election;
84 and the law applicable to challenges at a general municipal
85 election shall be applicable to challenges made at such primary

86 election. Judges of election shall immediately upon the closing
87 of the polls, count the ballots and ascertain the number of votes
88 cast in such precinct for each of the candidates, and make
89 immediate return thereof to the city clerk. On the day following
90 the said primary election, beginning at ten o'clock a. m., the
91 city council shall publicly canvass said returns so received from
92 all the polling precincts, and shall make and publish in all
93 newspapers of said city at least once, the result thereof. When
94 a mayor is to be elected the two candidates receiving the highest
95 number of votes for mayor shall be the candidates and the only
96 candidates, whose names shall be placed upon the ballot for
97 mayor at the next succeeding municipal election; and when a
98 commissioner is to be elected the two candidates receiving the
99 highest number of votes for commissioner of finance and the two
100 receiving the highest number of votes for commissioner of pub-
101 lic works shall be the candidates, and the only candidates, whose
102 names shall be placed upon the ballot for the respective com-
103 missioner at such municipal election. In the event of the death
104 or resignation of a nominee before the election the candidate
105 receiving the next highest number of votes at the primary shall
106 be placed on the ticket in his stead. *Provided*, that in the event
107 there are not more than two candidates at the primary election
108 for any office to be filled; the one receiving the majority of the
109 votes at such primary shall thereby be elected at such primary
110 election, and in that event no general municipal election shall
111 be held for such office as above provided, but all provisions as
112 to declaring the result of a general municipal election and the
113 taking of the office by said successful candidate shall apply to
114 and be applicable to said primary election.

115 The ballot of such general municipal election shall be in the
116 same general form as for such primary election, so far as ap-
117 plicable, and in all elections in such city the election precincts,
118 voting places, manner of conducting the election and announcing
119 the results, shall be the same as by law provided for election
120 of officers for county officers, so far as the same are applicable
121 to and not inconsistent with the provisions of this act, except
122 that there shall be no registration of the voters. The expense
123 attending the holding of said primary and all other elections
124 shall be borne by the city.

Sec. 6. Said city shall be governed by a council, consisting of the mayor and two commissioners chosen as provided in this act, each of whom shall have the right to vote on all questions coming before the commission. Two members of the commission shall constitute a quorum, and the affirmative vote of two members shall be necessary to adopt any motion, resolution or ordinance, or pass any measure. Upon every vote the yeas and nays shall be called and recorded, and every motion, resolution or ordinance shall be reduced to writing and read before the vote is taken thereon. The mayor shall preside at all meetings of the commission; he shall have no power to veto any measure, but every ordinance passed by the commission must be signed by the mayor, or by two commissioners, and be recorded before the same shall be in force.

Sec. 7. The commission shall have and possess, and the commission and its members shall exercise all executive, legislative and judicial powers conferred upon the cities, towns and villages by the general law of the state and by this act.

The executive and administrative powers, authority and duties in said city shall be distributed into and among three departments as follows:

1. Department of public affairs, police, fire, safety and health.

2. Department of streets, parks, public improvements, water works, sewers and public utilities.

3. Department of finance and revenue.

The council shall determine the powers and duties to be performed by, and assign them to the appropriate department; shall prescribe the powers and duties of officers and employees; may assign particular officers and employees to one or more of the departments; may require an officer or employee to perform duties in two or more departments; and may make such other rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the city.

Sec. 8. The mayor shall be the executive officer of the city, and shall have direct charge of matters of police supervision, public safety, the fire department, public health, and shall be police judge and have the power and authority to try and punish persons, firms and corporations charged with the violation of the city ordinance, and impose penalties for violations of said ordinances.

8 The commissioner of finance shall be city clerk and city treas-
9 urer, and shall have custody of all city money, and before as-
10 suming the duties of his office shall execute bond with approved
11 surety in the amount of at least twenty thousand dollars, and
12 in a larger sum if required by the council, conditioned as re-
13 quired by law of county treasurer. Such bond must first be
14 submitted to the city council for approval or rejection, and upon
15 approval filed with the mayor, and upon approval be recorded in
16 the record wherein is recorded the minutes of the meeting of
17 council, and then filed with the mayor, who shall be the cus-
18 todian of said original bond, and shall preserve the same. The
19 treasurer shall make reports to the city council from time to time
20 as required by the council, showing the condition of all city funds.
21 He shall keep separate accounts of all city funds. Payments by
22 the city shall be made only by order authorized at a regular
23 council meeting, and by the issuance of an order directed to
24 the treasurer, naming the particular fund from which payment
25 is to be made, which order shall be signed by the mayor and
26 countersigned by the commissioner of public works. All taxes
27 levied and collected for the purpose of paying either the interest
28 or principal of bonds heretofore or hereafter issued by the city
29 shall be used for the purpose of paying said interest, and retir-
30 ing said bonds, and shall be used for no other purpose.

31 The commissioner of public works shall have charge of the
32 streets and alleys, parks, public improvements, water works, sew-
33 ers and public utilities owned or operated by the city.

34 The commission shall have authority to employ all necessary
35 laborers, clerks or assistants to carry on the work of the city.

36 The commission may, at said first meeting, or as soon as prac-
37 ticable thereafter, elect by majority vote, the following officers:

38 A solicitor, city civil engineer, city physician, police judge,
39 chief of police, chief of fire department, street commissioner, and
40 such other officers and assistants as shall be provided for by or-
41 dinance and necessary to the proper and efficient conduct of the
42 affairs of the city. Any officer, assistant or employee elected, ap-
43 pointed, or employed may be removed at any time by a vote of
44 a majority of the members of the commission, under such regula-
45 tions as the commission may prescribe.

Sec. 9. The commission shall annually during the month of
2 April, by resolution request all of the banks of said city to

3 respectively offer a rate of interest to be paid said city for and upon
4 such money as may be deposited with it by said city for the
5 then ensuing year, and upon the incoming of said offers the
6 commission shall cause the same to be spread upon the record
7 of their proceedings, and the bank or banks offering the highest
8 rate of interest shall thereupon be designated as the depository
9 or depositories for the term of one year for all money accruing
10 to said city from all sources; *provided, however,* that no money
11 shall be deposited with the bank or banks so designated until
12 such bank or banks shall have given a bond, with security to
13 be approved by the commission, in a sum to be fixed by the com-
14 mission, and conditioned that said bank shall account for and
15 pay over all money received by it for the account of said city.
16 If two or more banks offer an equal rate of interest and such
17 rate is the highest offered, the money shall be deposited in said
18 banks in equal proportions, or as nearly so as practicable. The
19 city treasurer shall forthwith deposit in said bank or banks all
20 moneys that may come into his hands, and the money so deposited
21 shall be disbursed only upon orders signed as aforesaid, drawn
22 upon the treasurer and accepted by him.

Sec. 10. The commission shall have power from time to time
2 to create, fill and discontinue offices and employments other than
3 herein prescribed, according to their judgment of the needs of
4 the city, and may by resolution or otherwise, prescribe, limit or
5 change the compensation of such officers or employees.

Sec. 11. The mayor and commissioners shall have an office
2 or offices within the city and their total compensation shall be as
3 follows:

4 The annual salary of the mayor shall be two thousand four
5 hundred dollars, and the salary of each commissioner shall be
6 two thousand one hundred dollars. Such salaries shall be payable
7 in equal monthly installments, and the mayor and commissioners
8 in office when this act takes effect shall receive said salaries
9 until the end of the term for which elected.

10 Every other officer or assistant shall receive such salary or
11 compensation as the commission shall by ordinance provide, pay-
12 able in equal monthly installments.

13 The salary or compensation of all other employees of said city
14 shall be fixed by the commission, and shall be payable monthly
15 or at such shorter periods as the commission may determine.

Sec. 12. Regular meetings of the commission shall be held on the second and fourth Monday of each month, and special meetings may be called from time to time by the mayor or two commissioners. All meetings of the commission, whether regular or special, and to which any person not a city officer is admitted, shall be open to the public.

The mayor shall be president of the commission, and preside at its meetings, and shall supervise all departments and report to the commission for its action in any department. The commissioner of public works shall be vice president of the commission, and in case of vacancy in the office of mayor, or the absence or inability of the mayor, shall perform the duties of the mayor.

Sec. 13. Every ordinance or resolution appropriating money or ordering any street improvement or sewer, or making or authorizing the making of any contract, or granting any franchise or right to occupy or use the streets, highways, bridges, or public places in the city for any purpose, shall be complete in the form in which it is finally passed, and remain on file with the city clerk for public inspection at least one week before the final passage or adoption thereof. No franchise or right to occupy or use the streets, highways, bridges, or public places in said city, shall be granted, renewed or extended, except by ordinance. No franchise shall be granted for a period exceeding thirty years, nor until notice of the application for the same shall have been published in a city newspaper, or posted at the front door of the mayor's office for thirty days prior to the final passage of such franchise, and no amendment or addition thereto shall extend beyond the termination of the original franchise.

Sec. 14. No officer or employee of said city shall accept or receive, directly or indirectly, from any person, firm or corporation operating within the terminal limits of said city, any interest in urban railway, street railway, gas works, water works, electric light or power plant, heating plant, telegraph line or exchange, or other business using or operating under a public franchise, any frank, free pass, free ticket or free service or accept or receive, directly or indirectly, from any such person, firm or corporation, any other service or other gratuity upon terms more favorable than is granted to the public generally. Any violations of this section shall be a misdemeanor, and every such compact or agreement shall be void, and the penalty for a violation of

13 this section shall be a fine of not less than twenty dollars and
14 forfeiture of office. Such prohibition of free transportation shall
15 not apply to policemen or firemen in uniform; nor shall any
16 free service to city officials heretofore provided by any franchise
17 or ordinance be affected by this section.

Sec. 15. The commission shall create, by appointment, a civil
2 service board, consisting of three residents of the city, whose
3 duty it shall be to examine all applicants for position in the de-
4 partment of police, fire and water works and such other de-
5 partments as may be ordained, including the chiefs of such de-
6 partments, and shall define the terms and prescribe the duties of
7 the members of said board. All appointments to said departments
8 shall be made from applicants recommended by said board, and
9 when appointed shall be removed only for cause.

Sec. 16. The commission shall each quarter print in pam-
2 phlet form a detailed statement of all receipts and expenses of
3 the city and a summary of its proceedings during the preceding
4 quarter, and furnish printed copies thereof to the newspapers of the
5 city, and to persons who shall apply therefor at the office of the city
6 clerk. At the end of each year the commission shall cause a full
7 and complete examination of all the books and accounts of the
8 city to be made by competent accountants, and shall publish the
9 result of such examination in the manner above provided for
10 publication of quarterly expenditures.

Sec. 17. In the construction of this act, the following rules
2 shall be observed, unless such construction would be inconsistent
3 with the manifest intent, or repugnant to the context:

4 1. The words "councilman" and "commissioner" shall be con-
5 strued to mean "councilman" when applied to said city.

6 2. The words "council" and "commission" shall be construed
7 to mean "council" when applied to said city.

8 3. When an officer or officers are named in any law referred
9 to in this act, it shall, when applied to said city, be construed to
10 mean the officer or officers having the same function or duties
11 under the provisions of this act, or under ordinances passed un-
12 der authority thereof.

13 4. The word "franchise" shall include every special privilege
14 in the streets, highways, and public places of the city, whether
15 granted by the state or the city, which does not belong to the
16 citizens generally by common right.

17 5. The word "electors" or "voters" shall be construed to mean
18 persons qualified to vote for elective officers at regular municipal
19 elections.

Sec. 18. The commission of the city may cause any street or
2 alley to be paved, between the sidewalks, with cobble stone, brick
3 or other suitable material, and a sewer to be constructed therein
4 from one of said cross streets or alleys to another, or to have
5 such paving done without the construction of a sewer, or a
6 sewer constructed without such paving, under such regulations
7 as shall be fixed by ordinance, upon the lowest and best terms
8 to be obtained by advertisements for bids, or proposals therefor,
9 by the commission as herein provided; and two-thirds of the
10 cost of such paving shall be assessed to the owners of the lots
11 or fractional parts of lots abutting or abounding on that part
12 of the street or alley so paved in proportion to the distance of
13 the frontage owned by each; *provided*, that in paying the cost
14 of paving any street upon which there is constructed any street
15 car, interurban or railway line, the city shall pay one-third of
16 such cost after first deducting the amount paid by the street car,
17 interurban or railway company, and the residue shall be paid by
18 the abutting property owners as above provided. The one-fourth
19 of such two-thirds shall be paid within thirty days after the
20 completion and acceptance of the work, and the remainder in
21 three equal installments, payable respectively at such times as
22 the commission may by ordinance fix at the time of letting the
23 contracts for such work. The other one-third of the cost of said
24 paving shall be borne by the city. The intersection of streets,
25 or of a street and alley, paved or provided with sewer under this
26 section shall be correspondingly paved or sewered at the sole
27 expense of the city.

28 The sum or sums of money thus assessed for paving shall be a
29 lien on the lots or fractional parts of lots upon which they are
30 assessed, which lien may be enforced by a suit in equity in the
31 name of the city in any court having jurisdiction thereof, and
32 the same or any installment thereof may be collected by a suit
33 at law before any court or any justice of the peace having juris-
34 diction thereof.

35 Immediately upon the completion and acceptance of any pav-
36 ing constructed by virtue of this section, the commission shall
37 direct the clerk to cause to be published a notice, which shall

38 name and describe the location of the street or alley upon which
39 said paving shall have been constructed; giving the names of
40 the owners of each lot abutting or abounding upon such street
41 or alley, if known, and if the name or names of the owners of
42 any lot or fractional part of a lot are unknown, such lot shall
43 be described with reasonable certainty in order that the same may
44 be identified. The number of feet that each lot or fractional part
45 of a lot abuts shall be stated; also the amount assessed against
46 each lot or fractional part of a lot. Said notice shall cite all
47 owners of lots or fractional parts of lots, abutting upon the streets
48 or alleys aforesaid to appear before the commission of said city
49 at a regular meeting thereof, within thirty days from the first
50 publication thereof, and show cause, if any they can, why the
51 assessment aforesaid should not become final, which notice shall
52 be published once a week for two successive weeks in one or
53 more newspapers of general circulation, published in said city.
54 The commission shall, upon the request of any one or more of the
55 owners of said lot or fractional parts of lot appoint a day to
56 hear the grievances of said owner or owners and may alter or amend
57 any assessment made against any one or more of said owner or own-
58 ers for good cause to be shown. The clerk shall give notice to all
59 persons claiming to be injured by said assessment, of the
60-61 time and place of holding said meeting, which meeting shall be
62 held within ten days after the expiration of thirty days mentioned
63 in said notice. The commission may adjourn the hearing from
64 time to time. In case any owner or owners of abutting property
65 fail to complain of any grievance or injury they may have suf-
66 fered by reason of the assessment aforesaid, and shall fail to
67 appear for the purpose of having the same corrected, the assess-
68 ment as laid shall be final. The findings of said commission shall
69 be conclusive. The rights conferred by this section are cumulative
70 and shall not be exhausted as to any particular street or alley
71 by reason of having been once exercised.

72 But the lien upon any real estate created by virtue of this sec-
73 tion shall be void as to any purchasers of any such real estate,
74 for value and without notice, who shall have purchased such real
75 estate at any time after a period of twelve months have elapsed
76 after the paving has been accepted by the city, unless an abstract
77 of such assessment, giving the location of the real estate affected,
78 the name of the owner and the date and the amount of the assess-

79 ment shall have been first recorded in the office of the clerk of
80 the county court of Taylor county, in the judgment lien docket.
81 And it is hereby made the duty of said county clerk to record
82 said abstracts; for the recordation of each of which said clerk
83 shall receive a fee of twenty-five cents to be paid by the city.

Sec. 19. The holder of any elective office may be removed at
2 any time by the electors qualified to vote for a successor of such
3 incumbent of an elective office as follows:

4 A petition signed by electors entitled to vote for a successor
5 to the incumbent sought to be removed, equal in number to at
6 least thirty per centum of the entire vote for all candidates for
7 the office of mayor cast at the last preceding general municipal
8 election, demanding an election of a successor of the person
9 sought to be removed shall be filed with the city clerk, which
10 petition shall contain a general statement of the grounds on
11 which the removal is sought. The signatures to the petitions
12 need not all be appended to one paper, but each signer shall
13 add to his signature his place of residence, giving the street and
14 number. One of the signers of each such paper shall make oath
15 before an officer competent to administer oaths, that the state-
16 ments therein made are true as he believes and that each sig-
17 nature to the paper appended is the genuine signature of the
18 person whose name it purports to be. Within ten days from
19 the date of filing such petition, the city clerk shall examine and
20 from the returns of election ascertain whether or not said pe-
21 tition is signed by the requisite number of qualified electors;
22 and, if necessary, the commission shall allow him extra help
23 for that purpose, and he shall attach to said petition his cer-
24 tificate showing the result of said examination. If, by the
25 clerk's certificate, the petition is shown to be insufficient, it
26 may be amended within ten days from the date of said cer-
27 tificate. The clerk shall, within ten days after such amend-
28 ment, make like examination of the amended petition and if
29 his certificate shall show the same to be insufficient, it shall
30 be returned to the person filing the same; without prejudice,
31 however, to the filing of a new petition to the same effect. If
32 the petition shall be deemed to be sufficient, the clerk shall
33 submit the same to the commission without delay. If the pe-
34 tition shall be found to be sufficient, the commission shall order
35 and fix a date for holding said election, not less than thirty

36 days nor more than forty days, from date of the clerk's certificate to the commission that a sufficient petition is filed.

38 The commission shall make, or cause to be made, publication
39 of notice and all arrangements for holding such election, and
40 the same shall be conducted, returned and the result thereof declared in all respects as are other city elections. So far as
42 applicable, except as otherwise herein provided, nominations
43 hereunder shall be made without the intervention of a primary
44 election by filing with the clerk at least ten days prior to said
45 election, a statement of candidacy accompanied by a petition
46 signed by electors entitled to vote at said special election, equal
47 in number to at least twenty per centum of the entire vote for all
48 candidates for the office of mayor at the last preceding general
49 municipal election, which said statement of candidacy and petition shall be substantially in the form set out in section five of
51 this act, so far as the same is applicable, substituting the word
52 "special" for the word "primary" in such statements and petition, and stating therein that such person is a candidate for election instead of nomination.

55 The ballot for such special election shall be in substantially
56 the following form:

57

Official Ballot

58 Special election for the balance of the unexpired term of

59 as

60 For

61 (Vote for one only.)

62 (Names of candidates.)

63

64

65 Name of present incumbent.

66 Official Ballot. Attest:

67 Signature

68 City Clerk

69 The successor of any office so removed shall hold office during
70 the unexpired term of his predecessor. Any person sought to
71 be removed may be a candidate to succeed himself, and unless
72 he requests otherwise in writing, the clerk shall place his name
73 on the official ballot without his filing any petition. In any
74 such removal election, the candidate receiving the highest num-

ber of votes shall be declared elected. At such election, if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon the qualification of his successor. In case the party who received the highest number of votes should fail to qualify within ten days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives the highest number of votes, he shall continue in office. The said method of removal shall be cumulative and in addition to the methods heretofore provided by law.

Sec. 20. Any proposed ordinance may be submitted to the commission by petition signed by electors of the city equal in number to the percentage hereinafter required. The signatures, verification, authentication, inspection, certification, amendment and submission of such petition shall be the same as provided for petition under section twenty-two hereof.

If the petition accompanying the proposed ordinance be signed by electors equal in number to twenty per centum of the votes cast for all candidates for mayor at the last preceding general election, and contains a request that the said ordinance be submitted to a vote of the people, if not passed by the commission, such commission shall either:

(a) Pass such ordinance without alteration within twenty days after attachment of the clerk's certificate to the accompanying petition; or,

(b) Forthwith, after the clerk shall attach to the petition accompanying such ordinance his certificate of sufficiency, the commission shall call a special election, unless the general municipal election is fixed within ninety days thereafter, and at such special or general municipal election, if one is so fixed, such ordinance shall be submitted without alteration to the vote of the electors of said city. But if the petition is signed by not less than ten per centum of the electors, as above defined, then the commission shall within twenty days pass said ordinance without change, or submit the same at the next general election occurring not more than ninety days nor less than thirty days after the clerk's certificate of sufficiency is attached to said petition.

The ballot used when voting upon said ordinance shall contain these words "for the ordinance," and "against the ordinance," (stating the nature of the proposed ordinance.) If a majority

31 of the qualified electors voting on the proposed ordinance shall
32 vote in favor thereof, such ordinance shall thereupon become a
33 valid and binding ordinance of the city; and any ordinance pro-
34 posed by petition, or which shall be adopted by a vote of the
35 people, cannot be repealed or amended except by a vote of the
36 people. Any number of proposed ordinances may be voted upon
37 at the same election in accordance with the provisions of this
38 election, but there shall not be more than one special election in
39 any period of six months for such purpose.

40 The commission may submit a proposition for the repeal of
41 any such ordinance or for amendments thereto, to be voted upon at
42 any succeeding general city election; and should such proposition
43 so submitted receive a majority of the votes cast thereon at such
44 election, such ordinance shall thereby be repealed or amended
45 accordingly. Whenever any ordinance or proposition is required
46 by this act to be submitted to the voters of the city at any elec-
47 tion, the city clerk shall cause such ordinance or proposition to
48 be published once in each of the daily or weekly newspapers
49 published in said city; such publication to be not more than
50 twenty nor less than five days before the submission of such prop-
51 osition or ordinance to be voted on.

Sec. 21. No ordinance passed by the commission, except when
2 otherwise required by the general laws of the state or by the
3 provisions of this act, except an ordinance for the immediate
4 preservation of the public peace, health or safety, which shall
5 contain a statement of its urgency, shall go into effect before ten
6 days (and if the same be an ordinance granting a franchise, it
7 shall not go into effect before thirty days) from the date
8 of its passage, and not then unless such ordinance shall have
9 been posted at the front door of the mayor's office for five days
10 prior to the expiration of said ten days, and if the same be
11 an ordinance granting a franchise it shall not go into effect at
12 the expiration of said thirty days, unless within five days from
13 the time of its final passage the same shall have been published
14 in full in some newspaper published and generally circulated in
15 said city. And if during said ten days, if it be an ordinance
16 other than one granting a franchise, and if during said thirty
17 days, if it be an ordinance granting a franchise, a petition signed
18 by the electors of the city, equal in number to at least twenty
19 per centum of the entire vote cast for all candidates for mayor

20 at the last preceding general municipal election at which a mayor
21 was elected, protesting against the passage of such ordinance or
22 franchise, be presented to the commission, the said ordinance or
23 franchise shall thereupon be suspended from going into operation,
24 and it shall be the duty of the commission to reconsider such or-
25 dinance or franchise, and if the same is not entirely repealed,
26 the commission shall submit the ordinance, or franchise as is
27 provided by sub-section (b) of section twenty of this act, to the
28 vote of the electors of the city either at the general election or
29 at a special municipal election to be called for that purpose, and
30 such ordinance or franchise shall not go into effect or become
31 operative unless a majority of the qualified electors voting on the
32 same shall vote in favor thereof. Said petition shall be in all
33 respects in accordance with the provisions of said section twenty-
34 three, except as to the percentage of signers and be examined and
35 certified to by the clerk in all respects as therein provided.

Sec. 22. Petitions provided for in this act shall be signed by
2 none but legal voters of the city. Each petition shall contain, in
3 addition to the names of the petitioners, the street and house num-
4 ber in which the petitioner resides, his age and length of residence
5 in the city. It shall be accompanied by the affidavit of one or
6 more legal voters of the city, stating that the signers thereof
7 were, at the time of signing, legal voters of said city, and the
8 number of signers at the time the affidavit was made.

Sec. 23. In case that the offices of two of the commissioners
2 should be vacant at the same time, for any cause, the remaining
3 member of the commission shall forthwith call a special election
4 to fill vacancies for the unexpired term, and he shall perform
5 all duties incident to such election and devolving upon the com-
6 mission and its several members. Should all members of the
7 commission resign or their offices become vacant, in any manner,
8 the civil service board mentioned in section fifteen shall forth-
9 with call a special election to fill such vacancies for the unexpired
10 term, and said board shall be fully authorized and empowered to
11 perform the duties of the commission until the installation of the
12 officers elected at such special election.

Sec. 24. The commission shall have the right to levy and
2 collect taxes and grant licenses; and shall, in the discretion of
3 the commission, have the exclusive right to grant or to refuse to
4 grant licenses, within said city, for conducting and operating

5 pool and billiard tables and rooms, whether state licenses may
6 have been granted for such purposes or not, and make such pro-
7 vision for the conduct thereof as it deems proper.

8 To lay off, open, close, vacate, or maintain public grounds,
9 parks and public places, in or near the said city, and to guard
10 and police the same; to prohibit or regulate within the municipal-
11 ity or within two miles of its corporate limits or within two
12 miles of any cemetery, public park or place, the erection or main-
13 tenance of any slaughter house, soap factory, glue factory, tan-
14 nery, or other house, shop or factory of like kind or character;
15 to cause to be filled up, raised or drained, by or at the expense
16 of the owner, any town lot or tract of land covered or subject
17 to be covered by stagnant water; to prevent the desecration of
18 the Sabbath day; to regulate the running and speed of engines
19 and cars within said city; to regulate the sale of all foods and
20 drink products, milk and fresh meats, fish and vegetables, and
21 provide for inspection of same; to establish, regulate and main-
22 tain baths, bathing houses, drinking fountains, public toilet sta-
23 tions, and free public band concerts, and to regulate the time and
24 place of bathing pools and streams and public waters, within
25 the police jurisdiction of the city; to prevent gambling and
26 keeping of gambling places; to regulate the running of steam and
27 electric cars and automobiles over and across any streets or alleys,
28 and to require any railroad company or street car company to pro-
29 vide watchmen, gates or both watchmen and gates for any cross-
30 ing; to regulate or prohibit the ringing of bells, blowing of
31 whistles, the use of hand organs and all musical instruments of
32 any annoying character; to regulate or prohibit the distribution
33 of hand bills, circulars, and other advertisements on the streets,
34 roads, alleys, public places and parks, and in private yards,
35 buildings or other structures; to acquire, hold, maintain, control,
36 or dispose of a hospital or a public library, or any property for
37 eleemosynary purposes or any interest therein; to prohibit the
38 carrying about the person of revolvers, billies, false knuckles,
39 dirks, razors, bowie-knives or other dangerous and deadly
40 weapons, and to impose penalties therefor; to punish offenders
41 for all misdemeanors committed within the city limits.

Sec. 25. The commission of the city may cause to be graded
2 and paved with brick, concrete or any other suitable material
3 any sidewalk of any street or alley within the city, and where

4 any such sidewalk has once been paved, and the paving thereof
5 is in bad repair, dangerous or otherwise unfit, the commission
6 may cause such pavement to be removed, and the same replaced
7 with new pavement of brick, concrete or any other suitable ma-
8 terial upon such regulations as prescribed by the commission at
9 the expense of the owners of the lots or fractional parts of the
10 lots abutting or abounding on that part of the sidewalk so paved,
11 and the commission may likewise cause the curb stone along any
12 sidewalk to be placed and set, and may likewise cause any curb
13 stone that has been placed and set, and which has become out of
14 repair, dangerous or otherwise unfit, to be removed and replaced
15 by new curb stone to be constructed of such material as the
16 commission may prescribe, the cost of which shall be paid by the
17 owner of the lot or fractional lots abutting or abounding on that
18 part of the sidewalk for which said curb is so set or replaced;
19 *provided* that the said commission shall first notify the owner
20 of such abutting or abounding lots of its desire to have said
21 sidewalks so paved or the pavement thereon replaced or said curb
22 stone placed or reset, prescribing in said notice the kind of work
23 to be done, and the material to be used, and upon the failure of
24 such owner to so perform the work as required by a date to be
25 specified, the said city may then do said work at the expense of
26 said property owner, and assess the cost thereof against said
27 property owner.

28 The sums of money thus assessed for the grading, paving or re-
29 paving, or setting of the curb, or the replacing of curb, shall be
30 a lien upon the lots or fractional parts of lots upon which are
31 assessed, which lien may be enforced by a suit in equity in the
32 name of the city in any court having jurisdiction thereof, or the
33 same may be collected by a suit at law before any court or any
34 of the justices of the peace having jurisdiction thereof.

35 The findings of said commission shall be conclusive. The
36 rights conferred by this section are cumulative and shall not be
37 exhausted as to any particular street or alley by reason of having
38 been once exercised.

39 But the lien upon any real estate created by virtue of this
40 section shall be void as to any purchaser of any such real estate,
41 for value and without notice, who shall have purchased such
42 real estate at any time after a period of twelve months has
43 elapsed after the paving has been accepted by the city, unless an

44 abstract of such assessment, giving the location of the real es-
45 tate affected, the name of the owner and the date and the amount
46 of the assessment shall have been first recorded in the office of
47 the clerk of the county court of Taylor county, in the judgment
48 lien docket.

49 And it is hereby made the duty of said county clerk to record
50 said abstracts; for the recordation of each of which said clerk
51 shall receive a fee of twenty-five cents to be paid by the city.

Sec. 26. The commission shall have authority to levy and
2 collect annual tax for general purposes on the personal property
3 and real estate in said city subject to taxation by said city, not
4 to exceed in any one year fifty cents on each one hundred dollars
5 of the assessed value thereof, and which fund may be used for
6 general purposes, and for any purpose desired by the commission
7 within the scope of their authority. The commission shall have
8 authority to levy and collect annual tax on the personal property
9 and real estate of said city in addition to all other taxes, not to
10 exceed in any one year ten cents on each hundred dollars of the
11 assessed value thereof, and which levy may be in excess of the
12 total levy hereinbefore authorized, and in excess of the levy author-
13 ized by any bond issue, and in excess of the total levy authorized
14 by any general law, but the money so collected shall be used for
15 the purpose of paying its proportion of the cost of paving or
16 repaving streets and alleys, and for constructing sewers in said
17 city in accordance with the provision of section twenty-four of this
18 act and such money shall be used for no other purpose.

Sec. 27. The word commission as used herein shall be con-
2 strued as meaning the "council," the "commissioners," or the
3 governing body of the city.

Sec. 28. The commission shall have authority and power to
2 cause any street railway company or similar railway company,
3 or any other company operating any street railway or other rail-
4 road in and upon the streets and alleys of the city to keep the
5 crossings in good repair and condition, and shall have the power
6 and authority to require any such company to keep in good repair
7 the pavement between the rails of the track, and to the end of
8 the ties outward on any street traversed by the tracks of such
9 company, and shall have the authority to require any such com-
10 pany to pave any street between the rails and to the end of the
11 ties outward where traversed by such track, and to cause any such

12 company to take up any pavement between the rails and to the
13 end of the ties outward which has become dangerous or in bad
14 repair, and to repave the same with such material as required by
15 the commission, or the commission of the city may cause any
16 street or alley traversed by the tracks of any such company to be
17 paved between the rails of said company, and to the end of the
18 ties outward, with any suitable material, under such regulations
19 as shall be fixed by ordinance upon the lowest and best terms to
20 be obtained by advertisement for bids or proposals therefor, as
21 herein provided, and the entire cost of such paving, between the
22 rails and the end of the ties outward, including any necessary
23 grading therefor, shall be assessed to the owner of such street
24 railway or other railway. The one-fourth of such cost shall be
25 paid within thirty days after the completion and acceptance of
26 the work, and the remainder in three equal installments, payable
27 respectively at such times as the commission by ordinance may
28 fix at the time of the letting of the contract for such work, and
29 this provision shall also apply to any pavement between the said
30 rails and to the end of the ties outward which has become dan-
31 gerous or out of repair, and the city commission shall likewise
32 have the power and authority to cause any such pavement to be
33 removed and new pavement constructed, the cost of which, includ-
34 ing any necessary grading, shall likewise be paid by the owner
35 of such street railway track or other railroad.

36 The sum or sums of money thus assessed for such paving or
37 repairing shall be a lien upon all the property of the owner of
38 said street railway, or other railway, within the city of Grafton,
39 which lien may be enforced by a suit in equity in the name of the
40 city in any court having jurisdiction thereof, or the same or any
41 installment thereof may be collected by a suit at law instituted
42 before any justice or in any court having jurisdiction thereof.

43 Immediately upon the completion and acceptance of any such
44 paving, or of any repairing to pavement by virtue of this section,
45 the commission shall direct the clerk to cause a notice to be given
46 to the owner of any such street car track, or other railroad track,
47 which shall name and describe the location of the street or alley
48 upon which such work shall have been done, stating the amount
49 assessed for such work and directing the said owner to appear
50 before the commission at a regular meeting thereof, within thirty
51 days from the date of said notice, on a day to be therein specified,

52 and show cause, if any such owner can, why the assessment afore-
53 said should not be final, and in case any such owner fails to com-
54 plain of such assessment, and shall fail to appear for the pur-
55 pose of having the same corrected, the assessment as made shall
56 be final and binding upon all parties interested, and the findings
57 of said commission upon the said matters shall be conclusive and
58 binding upon all parties interested. The rights conferred by this
59 section are cumulative, and shall not be exhausted as to any
60 particular street or alley by reason of having been once exercised.
61 But the lien upon any such property created by virtue of this
62 section shall be void as to any purchaser of any such property for
63 value and without notice, who shall purchase said real estate at
64 any time after a period of twelve months has elapsed after the
65 paving has been accepted by the city, unless an abstract of such
66 assessment be recorded in the office of the clerk of the county
67 court of Taylor county in the judgment lien docket, and for record-
68 ing such abstract the clerk of the county court shall be entitled
69 to a fee of twenty-five cents for each abstract so recorded.

Sec. 29. Subject to the limitation of sections seven and eight
2 of Article X of the constitution of the state of West Virginia and
3 when in the opinion of the commission the levies provided by law
4 together with any available funds are insufficient to pay the cost
5 of any needed improvement within the city, bonds may be issued
6 in any amount, including existing indebtedness, in the aggregate
7 not to exceed five per centum on the value of all the taxable prop-
8 erty within said city; *provided* that the commission shall first
9 enter an order specifying the proposed improvement in a general
10 way, the estimated cost thereof, stating the existing indebtedness,
11 the amount of the proposed bonds with the interest rate thereof,
12 the number, the amount and the date when said bonds shall become
13 due and payable, the maximum levy required in any year for
14 the retiring of said bonds and the payment of the interest thereon.
15 the value of all the taxable property within said city as ascertained
16 by the last assessment, and shall provide that no part of the pro-
17 ceeds of such bonds or levy shall be used for any other purpose
18 than the improvement specified in such order, but such order
19 need not specify minutely the improvement contemplated but
20 only in a general way, and submitting to the legal voters of said
21 city the proposition of authorizing the issuance of the bonds speci-
22 fied in said order and the laying of a levy to pay the same and the

23 interest thereon not to exceed in any one year the maximum levy
24 specified in said order.

25 The commission shall cause a vote to be taken upon the ques-
26 tion of such bond issue or such levy or both at the several voting
27 places in said city either at the succeeding general municipal
28 election or at any special election called by said commission and
29 provided for in said order.

30 The clerk of the commission shall cause as many copies of
31 such order to be made or printed as may be necessary and sign
32 the same, and he shall forthwith post one in a conspicuous place
33 in his office and one at the front door of the court house of Tay-
34 lor county. The commission shall direct a copy to be published
35 once each week for four consecutive weeks prior to the date of
36 such election in two newspapers of opposite politics if such there
37 be published in the city of Grafton. The commission shall at the
38 time of entering said order providing for said election specify the
39 places where said vote shall be taken and appoint three legal
40 qualified voters as commissioners and two legal qualified
40-a voters as clerks for each of said polling places to hold and
41 conduct said elections, and which polling places and election
42 officers shall be specified in said order as well also the date for
43 the holding of said election which shall not be less than forty
44 days nor more than ninety days next after the entrance of said
45 order.

46 A vote shall be taken and the result ascertained under the regu-
47 lations prescribed for a general election of county and district
48 officers and the result shall be ascertained and certified accord-
49 ing to the regulations prescribed by law for ascertaining and
50 certifying the election of county and district officers except that
51 the same shall be certified and reported to the commission of the
52 city and the commission shall declare by an order entered of record
53 the result of said election.

54 The ballots used in taking such poll shall have written or
55 printed thereon "Election to Authorize a Bond Issue according
56 to the order entered by the Commission of the City of Grafton
57 on the —— day of ——, 19——" and directly underneath
58 in two separate lines shall be printed the words

59 "For the bond issue and levy payment"

60 "Against the bond issue and levy for payment"

61 with a square to the left and opposite the words "for the bond

62 issue and levy for payment," and with a square to the left and
63 opposite the words "Against the bond issue and levy for pay-
64 ment," and those desiring to vote for the bonds and the levy shall
65 either put an X in the square opposite the words "For the bond
66 issue and levy for payment" or erase the words "Against the bond
67 issue and levy for payment," and those desiring to vote against
68 the issuance of the bonds and the levy shall either place an X
69 in the square opposite the words "Against the bond issue and levy
70 for payment," or strike out the words "For the bond issue and
71 levy for payment."

72 If it shall appear by the result of said election that not less than
73 three-fifths of the voters of the city who voted upon the proposed
74 issue of bonds and the said levy have voted in favor of the same the
75 commission shall thereupon have authority to issue the amount or
76 any part thereof of said bonds and to lay the levy so voted for not
77 to exceed in any one year the maximum amount of said levy to pro-
78 vide for the payment of such bonds and the interest to accrue
79 thereon.

80 The treasurer shall have power when so directed by the commis-
81 sion by an order entered of record to execute, sell and deliver said
82 bonds and receive the proceeds therefrom but said bonds shall be
83 countersigned by the mayor and shall have attached thereto
84 coupons representing the interest to accrue for the different years,
85 and when issued in accordance with this section shall be binding
86 upon the said city and all the property and funds of the city shall
87 be pledged for the payment of the same.

88 The bonds authorized by this section, including existing indebt-
89 edness, shall not exceed five per centum of the valuation of the
90 taxable property within the city as ascertained by the last assess-
91 ment.

Sec. 30. This act shall be effective unless within thirty days
2 from the passage thereof, not less than ten percent of the legal
3 voters of said city of Grafton, as evidenced by the vote cast at the
4 last city election, petition the commissioners of said city for a ref-
5 erendum vote when same shall then be submitted to the voters of
6 the city of Grafton, then living within the territory embraced in
7 section two hereof, at a special election called for that purpose,
8 and adopted by a majority of the votes cast for and against the
9 same at said election. The commissioners of the city of Grafton
10 shall call such election within thirty days after the presentation

11 of said petition requesting a referendum vote, and such election
12 shall be held at all precincts in such city upon notice published
13 once a week for two weeks in the newspapers published in the
14 city of Grafton and by notice posted in each precinct in said city
15 for ten days preceding such election. Said election shall be con-
16 ducted, officers appointed, returns canvassed and results declared
17 as any city election in said city is now authorized by law.

18 The ballot to be voted at said election shall be printed upon
19 plain white paper and in the following form:

20 City of Grafton

21 Charter Election

22 Indicate how you desire to vote by a cross in the square.

23 [] "For adoption of new charter."

24 [] "Against adoption of new charter."

House Bill No. 310

(Senate Substitute for House Bill No. 310.)

AN ACT to amend and re-enact the act of the legislature of West
Virginia, passed on the sixth day of March, one thousand nine
hundred and seven, creating the municipal corporation of "The
city of Logan," in the county of Logan, and to also re-enact
chapter eighty-eight of the acts of the legislature of the year
one thousand nine hundred and nine, and chapter eighty-two,
acts of the legislature of one thousand nine hundred and thir-
teen, and amending said act incorporating "The city of Logan."

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of that portion of Logan
2 county in the State of West Virginia, included within the boundary
3 described in section two of this act, now a municipal corporation
4 existing and known as "The City of Logan," shall continue to be
5 a body politic and corporate under the same name, and as such
6 shall have perpetual succession; may use a corporate seal; may
7 sue and be sued; plead and be impleaded; contract and be con-
8 tracted with; acquire property for municipal purposes in fee
9 simple, or lessor interest or estate, by purchase, gift, devise, ap-
10 propriation, lease, or lease with the privilege to purchase, either
11 within or without the city limits, subject to the rights of other
12 affected municipal corporations; may sell, lease, hold, manage and

13 control such property, and make any and all rules and regulations.
14 by ordinance or resolution which may be required to carry out
15 fully all provisions or any conveyance, deed or will, in relation to
16 any gift or bequest, or the provisions of any lease by which it may
17 acquire property; after the first election under this charter, may
18 acquire, construct, own, lease and operate light, heat, power and
19 water plants, and regulate all other public utilities; may grant
20 public franchises to be exercised within the city; may assess, levy
21 and collect taxes for general and special purposes on all the sub-
22 jects or objects within its boundaries which the city may lawfully
23 tax; may borrow money for permanent improvements and public
24 works on the faith and credit of the city by the issue or sale of
25 bonds or notes of the city, and in the issuance and sale of said
26 bonds the said city shall be governed by the restriction and limi-
27 tations of the constitution and laws of the state relating to the
28 issuance and sale of bonds, so far as said state laws are not in
29 conflict with the provisions of this act; may pave, repave, curb
30 grade, regrade, sewer, re sewer, or otherwise permanently improve
31 any street, alley, or roadway within the city limits, and assess
32 the entire cost thereof, excluding the cost of intersections, with
33 interest, or any part thereof, against the owners of the abutting
34 or benefited properties in accordance with an ordinance that
35 shall permit the payment of said assessments in annual install-
36 ments, and may in anticipation of the levying of said assessments,
37 issue and sell its bonds, as hereinbefore provided, to the estimated
38 amount of the cost of said improvements, and apply said assess-
39 ments as same are paid to the liquidation of said bonds and in-
40 terest thereon; may appropriate the money of the city for all law-
41 ful purposes; may create, provide for, construct, regulate, and
42 maintain all things of the nature of public works and improve-
43 ments; may direct the laying out of lots and opening of streets
44 roadways; may license and regulate persons, corporations and as-
45 sociations engaged in any business, occupation, profession or
46 trade; may define, prohibit, abate, suppress and prevent all things
47 detrimental to the health, morals, comfort, safety, convenience
48 and welfare of the inhabitants of the city, and all nuisances and
49 causes thereof; may regulate the construction, height and ma-
50 terials used in all buildings and structures of every kind, and the
51 maintenance, occupancy and use thereof; may regulate and
52 control the use, for whatever purpose, of the streets and other

53 public places; may make and enforce local police, sanitary and
54 other regulations, and prescribe, impose and enforce reasonable
55 fines and penalties including imprisonment, and shall have the
56 right to use the jail of said county when necessary; and may
57 pass such ordinances and resolutions as may be expedient or neces-
58 sary for maintaining and promoting the peace, good government
59 and welfare of the city, and for the performance of the functions
60 thereof. The city of Logan as constituted by this act, shall re-
61 tain, keep and succeed to all rights, privileges, property, interest,
62 claims and demands heretofore acquired by, vested in or transfer-
63 red to the said city as heretofore constituted and shall have all
64 powers that now are or hereafter may be granted to municipali-
65 ties by the constitution or laws of West Virginia; or that are
66 herein by implication conferred, or are necessary to or con-
67 sistent with the purposes of this act; and all such powers, whether
68 expressed or implied, shall be exercised and enforced in the man-
69 ner prescribed by this act, or when not prescribed herein, in such
70 manner as shall be provided by ordinances or resolutions of the
71 governing body herein provided for.

Sec. 2. The corporate boundaries of said city shall be as follows:

2 Beginning at a stake in the center line of the Guyan Valley
3 Railroad at the Bill Ellis hollow; thence north 17 degrees 33'
4 East 854.65 feet to a dead sugar tree in the Bill Ellis hollow;
5 thence north 29 degrees 39' west 7019 feet to a stake in the center
6 line of the Guyan Valley railroad at the mouth of Varney branch;
7 thence north 78 degrees 29' west 528.07 feet crossing Guyandotte
8 river to a stake at high water mark and on the lower edge of the
9 county road; thence with the high water mark of said river to
10 the mouth of Island creek, a distance of about one-half mile,
11 thence with the right hand side of said creek (as you ascend the
12 same), to the right of way of the county road at the county bridge
13 across Island creek, thence crossing Island creek to a line parallel
14 with said bridge to the right of way of the county road and thence
15 with the right of way of the county road to Guyandotte river and
16 crossing Guyandotte river on a line parallel with the county
17 bridge across said river to high water mark on the left hand side
18 of said river (as you ascend the same), on the lower side of the
19 public road or street, and thence with said high water mark to
20 the upper line of the street or public road at the point where the
21 county bridge crosses Guyandotte river, and thence re-crossing

22 Guyandotte river on a line parallel with the line of the county
23 bridge across Guyandotte river to high water mark on the right
24 hand side of said river (as you ascend the same) to a point
25 opposite Bill Ellis hollow, and thence crossing Guyandotte river
26 at the mouth of the Bill Ellis hollow and running up the bank
27 to the center of the railroad right of way, the place of beginning.
28 For all purposes, except taxation, herein enumerated or im-
29 plied, the city authorities shall have jurisdiction for one mile be-
30 yond the city limits.

Sec. 3. All the corporate powers of said city shall be vested
2 in and exercised by a board of commissioners, or under its au-
3 thority, which board of commissioners shall be composed of four
4 members, two of whom shall be elected from the political party
5 casting the largest vote for Governor in said city at the last pre-
6 ceding general election, and the other two from the political
7 party casting the next largest vote in the city for governor at
8 the said last preceding general election.

9 The commissioner receiving the largest vote at said city election
10 shall be elected mayor. In case two or more of said candidates for
11 commissioner receive the same number of votes, the commis-
12 sioners shall elect the mayor from those so tied at their first
13 meeting. The following officers may be appointed by the board
14 of commissioners; municipal judge; city clerk, city assessor and
15 city treasurer. The appointive offices shall be as nearly equally
16 divided between the two said political parties as possible and
17 shall be appointed as follows, to-wit; two of said commissioners
18 belonging to the same political party shall appoint one; then the
19 other two commissioners belonging to the same political party
20 appoint one, and continue thus alternating until all of said city
21 appointments are made. Should a vacancy occur in any of said
22 appointive offices the same shall be filled by the commissioners
23 entitled to fill the same under the provisions of this chapter.
24 And such persons appointed to fill such vacancy shall be of the
25 same political party as the person who formerly held said posi-
26 tion.

27 Each of said political parties mentioned in this act shall at least
28 fifteen days before any municipal election nominate four com-
29 missioners to be voted upon at said city election. From the eight
30 candidates thus nominated the two from each of said political
31 parties receiving the largest vote shall be declared elected.

32 Should a vacancy occur in said board of commissioners, said
33 vacancy shall be filled by the other commissioners, but from the
34 same political party to which the commissioner causing the
35 vacancy belongs and said appointment shall be made under the
36 provisions herein set out; *provided*, that if the city executive com-
37 mittee of that party recommend in writing within five days from
38 the time such vacancy occurred some person to be appointed, then
39 it shall be the duty of said commissioners making said appoint-
40 ment to appoint such person.

41 The board of commissioners shall be referred to in this act as
42 "The Board." In case of a vacancy in the office of mayor, the
43 commissioners shall select one among their number to fill out the
44 unexpired term as mayor but he shall belong to the same political
45 party to which said mayor belonged. In no case shall the mayor
46 vote on any question more than once.

Sec. 4. The term of each of the officers herein provided for
2 shall be two years, and until their successors are elected or ap-
3 pointed, and qualified, except all officers appointed to fill an un-
4 expired term shall be appointed only for the unexpired portion
5 of the term of the officers in whose stead they are appointed,
6 and shall likewise hold their offices until their successors are
7 elected or appointed and qualified. Officers of this city now in
8 office shall continue therein until September first, one thousand
9 nine hundred and twenty-one, or until the officers first elected
10 hereunder shall qualify.

Sec. 5. No person shall be eligible to the office of commissioner
2 unless he or she is a qualified voter residing within said city, and
3 entitled to vote at the last preceding election in said city, nor
4 unless he or she has resided therein for at least one year next
5 before his or her election.

Sec. 6. Every person elected or appointed to any office under
2 this charter before proceeding to exercise the authority, or dis-
3 charge the duties thereof, shall make oath or affirmation, that
4 he or she will support the constitution of the United States and
5 the constitution of this state, and that he or she will faithfully
6 discharge the duties of his or her said office to the best of his
7 or her skill and judgment, and no other oath, declaration or
8 test shall be required.

Sec. 7. The officers of the city shall be paid a monthly salary,
2 the amount of which shall be fixed by said board at the meeting

3 of the board at which levies are required to be laid under the
4 general laws of this state except the members shall be paid the
5 sum of five dollars for each regular monthly meeting of the
6 board actually attended and shall receive nothing for special
7 meetings not attended, and such members of the board shall not
8 receive any further salary.

Sec. 8. The treasurer of the city shall, before receiving any
2 of the funds of the city, execute a bond with approved securities
3 thereon in the penalty of at least ten thousand dollars, and con-
4 ditioned for the faithful performance of his other duty as treas-
5 urer of the city, and to pay over all monies and to deliver all
6 funds coming into his or her hands by virtue of his or her office
7 as required by this charter, the board of commissioners or by
8 the general law of the state of West Virginia, which bond shall
9 be filed with the board of commissioners and approved by them,
10 and the chief of police and each member of the police force shall
11 likewise before entering upon the discharge of their duties, exe-
12 cute and deliver to the said board a bond in the penalty of at
13 least three thousand five hundred dollars, conditioned as required
14 by the general law to be executed by a police officer before said
15 police officer is authorized to carry a pistol or other weapon.

16 Said bonds and all bonds, contracts and documents entered into
17 by and with said city shall be in the name of "The city of Logan."

Sec. 9. The first election under this charter shall be held on
2 the first Thursday in August, one thousand nine hundred and
3 twenty-one, and all subsequent general election of officers shall be
4 held on the first Thursday in April each second year thereafter.
5 The commissioners elected under this charter at the first elec-
6 tion hereunder shall take their office on the first day of *Septem-*
7 *ber* following, and those elected at all subsequent elections on
8 May the first following.

9 The special elections authorized hereunder shall be held as
10 provided by the said board in the order calling the same. Said
11 election shall be held at the voting precincts into which the city
12 is now or may hereafter be divided for general elections of state
13 and county officers.

14 At each election in said city all persons, both male and female,
15 who are entitled to vote under the constitution and laws of the
16 United States, and the constitution and the laws of the State of
17 West Virginia, and who have resided within said city for at

18 least six months prior to said election, shall at such election be
19 entitled to vote upon their being duly registered as required by
20 law.

21 The election shall be held by commissioners, clerk and chal-
22 lengers appointed by the said board in the manner prescribed by
23 chapter three of the code of West Virginia, governing the holding
24 of elections, so far as the same is applicable and not inconsistent
25 with provisions of this charter. The said board performing all
26 of the duties and functions required to be performed by the
27 county court in said charter, and the voters to be registered by
28 registrars appointed by the board unless the board shall adopt the
29 registration made at the last general election as the registration
30 for the city election about to be held.

31 The board shall convene as a canvassing board at ten o'clock
32 on the day next following each election, and shall canvass and
33 declare the returns of the election, make all recounts and decide
34 all contests demanded or made by any candidate for office, of any
35 special elections for the issuing of bonds by any citizen and tax
36 payer of the city in the manner that the county court is required
37 to do under chapter one hundred and three, chapter six and
38 chapter seven of the code of West Virginia, so far as the same is
39 applicable, and any contest thus decided by the said board may be
40 appealed to the circuit court of Logan county as provided in said
41 chapter, and from there to the Supreme Court of Appeals.

Sec. 10. The board of commissioners shall appoint all officers,
2 whose offices are established by this charter, and such additional
3 officers and employees as said board may from time to time by
4 ordinance create, except the officers herein provided to be elected.

Sec. 11. That in case of a vacancy during the recess of the
2 board in office which is not elective, the mayor shall, by appoint-
3 ment, fill such vacancy until the next meeting of the board when
4 the vacancy shall be filled by the board, as herein provided for
5 the appointment of officers by the board.

Sec. 12. All officers appointed under this charter may be re-
2 moved from office for official misconduct, incompetency, neglect of
3 duty or gross immorality in such manner as is prescribed by gen-
4 eral law for the removal of county and district officers, the said
5 board being hereby granted the jurisdiction and authority to try
6 and determine all matters relating to the removal of officers, and
7 upon the hearing of such motion or petition to remove any officer

8 they shall be governed by the general laws relating to the re-
9 moval of county and district officers, and an appeal may be taken
10 from their decision to the circuit court of Logan county in the
11 manner prescribed by general law on motion of any officer re-
12 moved by said board, or any petitioner or petitioners requesting
13 the removal of said officer. The elected officers may be removed
14 for said cause in the same manner that county and district officers
15 are removed.

Sec. 13. The executive powers under this charter shall be and
2 are hereby vested in the mayor, who shall take care that the laws
3 be faithfully executed, and who shall be the official head of the
4 city for ceremonial purposes and upon whom service may be had in
5 civil process and by the governor (military purposes). It shall
6 also be the duty of the mayor to attend and preside at all meet-
7 ings of the board, and to see that all ordinances of the board are
8 faithfully executed and carried out by the officers of the city,
9 and until a municipal court is provided for and a municipal judge
10 appointed and qualified, and thereafter in case of a vacancy in
11 said court, to hear, try and determine all complaints for viol-
12 tions of city ordinances, and all complaints for violation of the
13 general law of this city over which the municipal court is given
14 jurisdiction, and the mayor shall perform such other duties as may
15 be required of him by the board of commissioners.

16 The mayor shall be within the city a conservator of peace.

Sec. 14. The board shall meet once each month at the office
2 of the mayor of the city or at such place as they shall provide
3 and at such time as they shall provide for such meeting, which
4 meeting shall be known as the regular monthly meeting of the
5 board. They may hold special meetings at any time and place
6 at the request of the mayor or any two other members of the
7 board. In case of a special meeting each member of the board
8 shall be notified in time to attend the same.

9 At each meeting it shall be the duty of each member to attend,
10 and the mayor shall attend the meeting and act as presiding
11 officer. In his absence, however, the board may designate one
12 of its members to act as presiding officer pro tem. All of the
13 acts and proceedings of each meeting shall be recorded and at each
14 meeting the proceedings of the last meeting shall be read, correct-
15 ed, if erroneous, approved and signed by the presiding officer.

16 A majority of all of the members elected to the board shall

17 be necessary to constitute a quorum for the transaction of busi-
18 ness, but a smaller number may meet and compel the attendance
19 by proper process as provided by general law of the other mem-
20 bers of the board refusing or failing to attend.

Sec. 15. All the corporate powers and functions, jurisdiction
2 and authority pertaining to the city of Logan and herein granted
3 to it, and not specifically delegated to some other officer of the
4 city, is hereby granted and vested in the said board who shall
5 transact no business except when assembled as a board, and when
6 so assembled shall have full power, authority and jurisdiction
7 to carry into effect all of the powers of the municipal corpor-
8 ation granted under this charter or general law, or necessary for
9 the full enjoyment of the power and privileges so granted. And
10 it shall be the duty of the board to make and to have executed
11 all ordinances, resolutions, by-laws, necessary, proper or con-
12 venient to enable said board to carry out all of the powers, priv-
13 ileges, functions and authority granted to this city under section
14 one of this charter, and to specifically provide for the holding of
15 the elections herein provided for, and appoint the officers herein
16 provided for, and to have kept and to preserve the records of
17 the city as herein provided for, to impose the taxes herein pro-
18 vided for, and to have the same collected and properly disbursed,
19 and to do and perform all things necessary for the governing
20 of the city of Logan under this charter, and especially to pre-
21 serve the peace, health and welfare of the inhabitants of said city.

Sec. 16. The board shall cause to be kept by the "City Clerk,"
2 in a well bound book (which may be a loose leaf book), to be
3 called the "Minute Book," an accurate record of all proceedings,
4 acts, orders and resolutions, and in another book (which may be
5 loose leaf record), to be called "Ordinance Book," an accurate
6 copy of all general ordinances adopted by the board, both of
7 which shall be accurately indexed and open to the inspection of
8 any one who pays taxes in the city, or who may be otherwise in-
9 terested therein. All oaths and bonds of officers of the city, and
10 all papers of the board shall be endorsed, filed and securely kept
11 by the "City Clerk." The bonds of all officers shall be recorded
12 in a well bound book (which may be a loose leaf book), to be
13 called "Record of Bonds."

14 The transcript of any of the proceedings, acts, orders, resolu-
15 tions, ordinances or bonds, recorded, as aforesaid, when duly cer-

16 tified by the "City Clerk," under the seal of the city, shall be
17 admissable in evidence in any court or before any justice of the
18 peace in the state of West Virginia.

Sec. 17. The "City Clerk" shall accurately keep the minute
2 book and the ordinance book, as provided in section sixteen, and
3 shall accurately record all bonds as provided in said section, and
4 shall have charge of and preserve the records of the city.

5 In the absence of the mayor from the city, or his inability
6 for any cause to act as mayor, or during any vacancy in the
7 office of mayor, (until the same is filled by the board as pro-
8 vided herein), the city clerk shall perform the duties of the mayor,
9 and to that end, in addition to the powers herein conferred upon
10 him, the city clerk is hereby vested, when so acting as mayor,
11 with all the powers necessary for the performance of the duties
12 of the mayor. The city clerk shall attend each meeting of the
13 board, and perform such other duties as the board may require
14 of him.

Sec. 18. It shall be the duty of the assessor to make an assess-
2 ment of the property within the city subject to taxation, sub-
3 stantially in the manner and form in which the assessments are
4 made by the assessor of the county, and return the same to the
5 board on the same day that the assessor of the county is required
6 to return the county assessment to the county court of Logan
7 county, and for this purpose the city assessor shall have all the
8 powers conferred by law upon the county assessor of Logan
9 county, the valuation of which property shall be the same as
10 the valuation for the county and state taxation.

11 He shall list the number of dogs, and other animals, subject
12 to license tax in the city, and the name or names of persons
13 owning the same, which list shall likewise be returned to the
14 board at the same time the assessment of property is returned.

15 In order to aid the assessor in ascertaining the property sub-
16 ject to taxation by the city, he shall have access to all books and
17 public records of Logan county without expense to him of the
18 city, and he shall have the same powers and be subject to the
19 same penalties in ascertaining and assessing the property, sub-
20 ject to taxation in said city, as are granted and imposed on the
21 county assessors throughout the state by general law.

22 When the assessor shall have completed his assessment he

23 shall deliver the same upon the order of the board, sworn to by
24 him, to the city treasurer.

Sec. 19. It shall be the duty of the city treasurer to receive
2 the assessment of property and animals subject to license tax in
3 the city from the city assessor upon the order of the board and he
4 shall, thereupon, within the time prescribed for the collection
5 of county taxes, collect from the persons and corporations, the
6 entire amount of taxes with which they are charged in said as-
7 sessment. He shall allow the same discount to persons paying
8 their taxes before the thirtieth day of November of each year as
9 is allowed by general law to tax payers on county and state taxes,
10 and he is hereby given the same authority and power to levy upon
11 personal property of persons assessed with taxes and to make
12 sale of the same in the same maner and to the same extent as the
13 sheriff of the county is allowed to make levies and sales of per-
14 sonal property for state and county taxes. He shall make out
15 and deliver to each tax payer proper receipts for the taxes so
16-17 paid by the tax payer and may in the same manner that the
18 sheriff of the said county is required to make out and deliver to
19 tax payers, receipts for taxes paid to the sheriffs, and the treas-
20 urer shall make settlements of his accounts before the board on the
21 same dates that sheriffs are required to make settlement with the
22 county court for the taxes collected by them. The treasurer
23 shall keep an accurate itemized account of all taxes collected by
24 him, of all moneys received by him on behalf of the city from any
25 source, and this account shall at all times, be open for the inspec-
26 tion of the mayor, board, city clerk or any tax payer of the city.
27 He shall also make up, when required by the board, statements
28 of the money in his hands and the amount paid out by him, which
29 account shall show to whom and on what authority each item
30 was paid.

31 He shall also collect and receipt for all license tax imposed
32 by the board.

33 He shall pay out the money in his hands upon the order of the
34 city board which order shall be signed by the mayor and city
35 clerk.

36 He shall at the expiration of his term of office and at such
37 other times as the board may require, present to the board a full
38 and complete statement of all moneys with which he is charge-
39 able, or that have been received by him, and not previously ac-

40 counted for, and shall at the same time, and in like manner,
41 furnish a complete statement, by separate items, of all disburse-
42 ments made by him during such period, and with his vouchers
43 evidencing the payment of the same. He shall upon the expira-
44 tion of his term of office, turn over to the board all books and
45 other papers in his possession belonging to the city, except the
46 money in his hands, which he shall turn over to his successor
47 upon the order of the board. He shall immediately after his
48 induction into office, make up an accurate account and keep the
49 same revised to date of all the bonded indebtedness of the city.

Sec. 20. The judicial power of the city shall be vested in a
2 municipal court to be presided over by the mayor, if no municipal
3 judge be appointed. Said court shall have exclusive jurisdiction
4 of all criminal proceedings for the violation of any city ordinance,
5 and for the collection of any license or tax imposed by any city
6 ordinance, and shall have concurrent jurisdiction with justices
7 of the peace of Logan county in the following offenses committed
8 within the city, to-wit, petit larceny, assault and battery, breaches
9 of the peace, rioting, committing wilful injury to property, and
10 all misdemeanors, punishable by fine or by imprisonment in the
11 county jail, or both, proceedings respecting vagrants, lewd or
12 disorderly persons, and lewd and disorderly conduct.

13 In case of a vacancy in the office of municipal judge, the mayor
14 shall act as ex-officio municipal judge. The municipal judge (of if
15 none be appointed, the mayor) shall within the city, have, pos-
16 sess and exercise all the powers, and perform all of the duties
17 vested by law in the justice of the peace, except that he shall have
18 no jurisdiction in criminal cases or causes of action arising out-
19 side of the corporate limits of the city, said limits to include, how-
20 ever, the one mile extension of the jurisdiction of the city, pro-
21 vided for in section two of this act. He shall have the same
22 power to issue attachments in civil suits as the justice of the
23 peace has, although the cause of action arose outside of the city.
24 Said attachments shall be returnable to and be held before some
25 justice of the county of Logan. Any warrant or process issued
26 by the municipal judge may be executed at any place in Logan
27 county. He shall have the power to issue executions for all fines,
28 penalties and costs imposed by him, or he may require the imme-
29 diate payment thereof, and in default of such payment he may
30 commit the party in default to the jail of Logan county, or until

21 the fine or penalty and costs shall have been paid, but the term
32 of imprisonment in such cases shall not exceed thirty days. The
33 expense of maintaining any person committed to the county
34 jail by the municipal judge shall be borne by the city, except it
35 may be to answer an indictment or be under the provisions of sec-
36 tion two hundred and twenty-seven and two hundred and twenty-
37 eight of chapter fifty of the code of this state. The municipal
38 judge shall not receive any money belonging to the city or indi-
39 viduals, unless he shall give bond and security as is required by
40 justices of the peace, and all provisions of said chapter fifty of
41 the code, relating to monies received by justices shall apply in
42 like manner to the municipal judge.

43 He shall have authority to sentence an offender to labor upon
44 the streets or other public works of the city for a period not ex-
45 ceeding thirty days, and the compensation for said labor shall be
46 paid to said offender's dependents, if any, in conformity with such
47 regulations as the board by ordinance may provide.

48 Appeals shall lie from the judgment of the municipal court to
49 the circuit court of Logan county in accordance with law in the
50 same manner as appeals are allowed from justices of the peace, or
51 mayor, under chapter forty-seven of the code of West Virginia.

52 The municipal judge may be allowed a salary fixed by an ordi-
53 nance of the board in which case the fees and costs collected by
54 him shall be paid into the city treasury or said ordinance may
55 provide that no salary be paid the municipal judge, and in lieu
56 thereof that he receive the same fees as are provided by law for
57 justices of the peace in criminal and attachment cases. In this
58 event, however, the city shall assume no liability for the collection
59 of any of said fees.

60 A well bound book, indexed, to be denominated the "police
61 docket," shall be kept in the office of the municipal judge, in which
62 shall be noted each case brought before or tried by him, together
63 with the proceedings therein, including a statement of the com-
64 plaint, the warrant or summons, the return, the fact of appear-
65 ance, or non-appearance, the defense, the hearing, the judgment,
66 the costs, and in case the judgment be one of conviction, the ac-
67 tion taken to enforce the same. The record of each case shall be
68 signed by the police judge and the original papers thereof, if no
69 appeal be taken, shall be kept together and preserved in his office.

70 All references herein to the "police judge" or "municipal

71 judge," if none be appointed, shall relate to the mayor acting as
72 such.

Sec. 21. The city solicitor shall be an attorney at law authorized to practice in the courts of Logan county, and he shall be the legal adviser of the city and of all its officers in all matters arising and in which legal proceedings may be taken. He shall prosecute all suits, actions and proceedings, instituted on behalf of the city and defend all suits, actions and proceedings against the city, and when requested in writing, shall give his written opinion to the mayor or board upon such legal questions as may be referred to him affecting the city's interest, and he shall perform such other duties as may be required by the board. It shall be his duty to attend the session of the board when requested, also his duty when requested, by the board or mayor to prosecute all trials before the municipal court for violation of the city ordinances or offenses within the jurisdiction of said court, and he shall, without being so requested appear for the city in all appeals taken to the circuit court by the city or by defendants or criminals, and for his services he shall receive such compensation as the board shall by ordinance provide, and in addition to such compensation in all criminal prosecutions conducted by said city solicitor where there is a conviction of the defendant, there shall be taxed as of the costs a fee of not less than five dollars nor more than ten dollars, which fee shall be paid to such solicitor, and in all criminal cases appealed to the circuit court or Logan county, the city solicitor shall receive the same fee, in case of a conviction, as are allowed prosecuting attorneys in criminal cases.

Sec. 22. The chief of police shall be an *ex-officio* constable within the corporate limits of the city, and may execute any writ or process issued by the municipal judge or any justice of the peace at any place in Logan county; he shall have all the powers, rights and privileges within the corporate limits of the city in regard to the arrest of persons, the collection of claims, and the execution and return of process that is vested by law in a constable of a magisterial district, and he shall be liable to all fines, penalties and forfeitures that a constable of a magisterial district is liable to, to be recovered in the same manner and in the same court that fines, penalties and forfeitures may be recovered against such constable. All other police officers shall be members of the police force, and shall perform their duties under the general direction

14 of the chief of police, and they shall have and possess all of the
15 rights and privileges of a constable of a magisterial district while
15-a. acting as police officer within the corporate limits of the city.

16 The board shall determine and provide whether any police offi-
17 cer, and if so how many, shall be appointed in addition to the
18 chief of police herein provided for, and shall prescribe the term
19 of their services, and may on special occasions have special police
20 officers qualified to act as such for a limited time without the
21 giving of any bond.

Sec. 23. In the discretion of the board it may appoint a chief
2 of fire department, and one or more firemen, or the board may
3 provide for the organization and maintenance of a fire company as
4 provided in chapter forty-eight of the code of West Virginia, and
5 prescribe the duties, compensation and number of the fire com-
6 pany, and rules and regulations for the government of the com-
6-a pany and may provide for the using of fire equipment of the
7 city by the chief of the fire department or the fire company, if
8 one is organized, under chapter forty-eight of the code, and un-
9 less such chief of the fire department is appointed, or a fire com-
10 pany is organized under chapter forty-eight of the code, the chief
11 of police of the city shall be *ex-officio* the chief of the fire depart-
12 ment, and it shall be his duty to attend at all fires, and to direct
13 the use of the fire extinguishing appliances used by the city in an
14 effort to extinguish the fire.

Sec. 24. The board shall provide a city engineer whose duty it
2 shall be to perform such engineering services as are required from
3 time to time by an order of the board, and in case any permanent
4 improvements are being made upon any of the existing streets
5 or alleys, or to any of the sewers of the city, it shall be the duty of
6 the board to have the same done under the supervision and direc-
7 tion of the city engineer, and all new streets hereafter laid off or
8 dedicated to public use within said city, and all lines of sewers
9 hereafter laid by said city, before the same is dedicated or laid,
10 be correctly surveyed by the city engineer, and a map and plan
11 of the same filed with the city clerk as a part of the records of the
12 city.

13 In case the city should install a water works or a water plant
14 or purchase the one now in operation in said city, all lines for
15 carrying the water installed by the city, and all improvements
16 made to said plant, shall first be submitted to the city engineer

17 and approved by him before the same shall be acted upon by the
18 board.

Sec. 25. The superintendent of streets appointed by the board
2 shall, under the direction of the board, and within the limits of
3 the money provided for his work keep all public streets and alleys
4 clean and in constant repair and all sewers within the city
5 in constant operating condition, and shall, under the direction of
6 the board, have the garbage of the city removed and burnt or oth-
7 erwise disposed of as directed by the board and shall perform such
8 other duties at such times and in such manner as the board may
9 authorize by general ordinance or by special direction, in writ-
10 ing, direct.

Sec. 26. The city health officer shall perform the duties with-
2 in the corporate limits of the city of Logan, required to be per-
3 formed by the county health officer, under the general laws of this
4 state.

Sec. 27. The board shall cause to be annually made up and
2 enter in its "minute book," at the same time at which county
3 courts are required to make up their annual estimate, an accu-
4 rate estimate of all sums with which the city treasurer may be-
5 come chargeable to such city during the current fiscal year, and
6 shall give notice of such estimate as provided by general law and
7 that at the same time that county courts are required to lay their
8 annual levy, in the same manner, the board shall lay a sufficient
9 levy to pay the current expense of the city, thus estimated for
10 the current fiscal year. The said levy shall be upon all property
11 both real and personal assessed by the city assessor. The rate of
12 levy, however, shall not exceed fifty cents on one hundred dollars
13 valuation, unless a higher rate of levy be authorized by two-thirds
14 vote of the voters of said city at an election to be held for that pur-
15 pose, and in no case shall said levy for all purposes exceed seventy-
16 five cents on every one hundred dollars of valuation. At the same
17 time said board shall also levy a special annual tax of five dollars
18 on each female dog and two dollars and fifty cents on each male
19 dog within said city over three months old at the time said es-
20 timate is made, and the taxes thus levied shall be the fund out
21 of which the current expenses for the current fiscal year shall
22 be paid.

Sec. 28. There shall be a lien on all real estate within the
2 city for the city taxes assessed thereon, and for all fines and pen-

3 alties assessed against or imposed upon the owners thereof, by the
4 authorities of the city, including expense for making, maintain-
5 ing, repairing, paving, macadamizing, sidewalks, drains, gutters
6 and streets from the time the same are assessed or imposed, which
7 lien shall have priority over all other liens except taxes due the
8 United States and the lien for taxes due the state, county, and
9 district, and such lien may be enforced by the board in the same
10 manner provided by law for the enforcement of the lien for county
11 taxes.

12 The laws of the state of West Virginia in relation to delinquent
13 taxes and the sale of property therefor, are hereby in all respects
14 adopted as to all of the proceedings in relation to taxes for city
15 purposes delinquent in said city, and the powers and duties con-
16 ferred by the laws of the state upon county courts and their clerks
17 and sheriffs in regard to delinquent taxes and their collection, are
18 hereby in all things conferred upon said city board, city clerk, city
19 treasurer, and other officers of the city whose duties are of a sim-
20 ilar nature as those of county officers in so far as the same may be
21 directly or indirectly applicable in the collection of delinquent
22 taxes due the city, and so far as they are not applicable the board
23 is hereby given the authority to make proper rules and regula-
24 tions for carrying out the provision of this section to the end that
25 the laws imposed for the taxes herein may be enforced.

Sec. 29. The board may, by ordinance, impose a special li-
2 cense tax in all cases where the state of West Virginia imposes a
3 license tax, except that no license tax shall be levied by said city
4 under clauses "r" and "s" of section two, chapter thirty-two of the
5 code of West Virginia.

6 The board shall prescribe by ordinance the time and manner
7 in which license of all kinds shall be applied for and granted, and
8 shall require the payment of the taxes thereon to the city treas-
9 urer on the delivery to the person applying therefor, which tax
10 shall include the same fees for the issuing of license as are charged
11 for similar service by state and county officers, which fees shall
12 be paid into the city treasury.

13 The board may revoke any such license for a breach of any
14 of the conditions or for other good cause shown, but the person
15 holding such license must first have reasonable notice of the time
16 and place of hearing and adjudicating the matter as well as the
17 cause alleged, and shall be entitled to be heard in person or by

18 counsel in opposition to such revocation. The term for which the
19 license provided for in this chapter shall be granted shall be gov-
20 erned by the general laws providing for state license and rate of
21 license tax shall in no case be greater than the rate of state taxes
22 charged for the city license.

Sec. 30. The city shall construct, keep in repair and maintain
2 its own roads, streets and alleys and by reason thereof shall not be
3 required to pay any district or county road levies for the con-
4 struction or maintenance of roads outside of the city limits, ex-
5 cept levies to pay the bonded indebtedness of the county of Logan
6 now outstanding.

Sec. 31. And the city shall provide for and maintain, as re-
2 quired by law, all poor persons and paupers within the city limits
3 and shall by reason thereof be relieved from paying any county or
4 district levies for the maintenance of the poor or paupers.

Sec. 32. The city is hereby authorized to issue its bonds in
2 the manner provided by general law and in that way become in-
3 debted for the following purposes only, to-wit:

4 (a) For the purchasing of suitable lots and the building of a
5 city hall.

6 (d) For the paving, re-paving, curbing, re-curbing, grading,
7 re-grading, sewerage, re-sewerage, or otherwise permanently im-
8 proving any street or alley or roadway within the city limits or
9 the acquisition of land on rights of way for the establishment of
10 new streets, alleys or roadways or rights of way for the building
11 of city sewers.

12 (c) For the construction and installing of a water plant or
13 works to supply the city of Logan and the residents thereof with
14 water, or for the acquisition of the water plants or works now in-
15 stalled in said city, and the improving, re-construction or re-build-
16 ing of the same.

17 But the city shall not become indebted in any manner or for
18 any purpose to an amount, including existing indebtedness, in the
19 aggregate, exceeding five per centum on the valuation of the tax-
20 able property therein to be ascertained by the last assessment for
21 state, county and municipal taxes, previous to the incurring of
22 such indebtedness; nor without at the same time providing for the
23 collection of a direct annual tax sufficient to pay annually the in-
24 terest on such debts and the principal thereof, within, and not to
25 exceed thirty-four years; *provided*, no debt shall be contracted

26 under this section unless the question connected with the same
27 shall have been first submitted to a vote of the people, and have re-
28 ceived three-fifths of all the votes cast for and against the same.

Sec. 33. It shall be the duty of the board through and by the
2 city superintendent of streets and the city engineer to provide for
3 the construction, maintenance and constant repair of all streets,
4 alleys, roadways, sidewalks, gutters and sewers of the city, now
5 being used as such within the corporate limits of the city, or as
6 may hereafter be laid out or made and to keep the same at all
7 times open and free from obstruction and in suitable condition for
8 the use required to be made thereof, and to keep the same con-
9 tinuously clean and well drained, using the available current
10 funds for such purpose.

11 The board is also authorized to provide for the permanent im-
12 proving of the streets, alleys, roadways, gutters and sewers by
13 the using of bonds in the manner and to the extent provided for
14 in the last preceding section and in the manner provided for in
15 sections one to sixteen, both inclusive, of chapter eight of the acts
16 of the legislature of one thousand nine hundred and eight; provid-
17 ing for the issuing of bonds for street improvements and sewers,
18 which act of the legislature was as provided in section seventeen
19 thereof submitted to the voters of said city of Logan and by them
20 duly ratified, therefore, the said sections one to sixteen, both in-
21 clusive, of said act, are hereby made a part of this charter so far
22 as the same is not in conflict with the provision of this act.

Sec. 34. It shall be the duty of the owner of any real prop-
2 erty abutting on or next adjacent to or on any side walk, foot
3 way or gutter, of this city, to lay and construct proper sidewalks
4 and to curb, re-curb, pave, re-pave, or repair, and keep the same
5 in constant good condition and clean in the manner and within
6 the time required by the board, and if any owner of any real
7 property abutting on or next adjacent to any sidewalks, footway,
8 or gutter of said city shall fail or refuse to lay and construct
9 proper sidewalks, and to curb, re-curb, pave or re-pave, or re-
10 pair or keep the same clean in the manner and within the time
11 required by the board, it shall be the duty of the board to cause
12 the same to be done at the expense of the city, and to assess the
13 amount of such expense against said property, and upon the
14 owner thereof, and the amount so assessed shall be collected
15 by the city treasurer in the same manner and at the same time

16 that city taxes on property assessed within the city is collected,
17 and there shall be a lien upon said property for the amount
18 assessed hereunder the same as the lien for taxes as herein pro-
19 vided.

Sec. 35. The board shall have the right to institute and
2 prosecute proceedings in the name of the city for condemnation
3 of real estate for streets, alleys, roadways, drains, sewers, market
3-a grounds, city hall, and other public purposes for the city. Said
4 proceeding shall conform to the provisions of chapter forty-two
5 of the code of West Virginia, and the expense thereof shall be
6 borne by the city except in case where it is provided under said
7 chapter to charge said expense or any part thereof against the
8 defendant.

Sec. 36. Public utility franchises shall be granted for a
2 period not exceeding twenty-five years.

3 It shall be provided in every public utility franchise that upon
4 the annexation of territory to the city, said franchise shall apply
5 also within the said annexed territory.

6 No exclusive monopoly shall be granted, and all franchises
7 or privileges for the occupation of the streets, alleys and road-
8 ways of the city, shall be strictly construed in favor of the city.

9 No grant of extension of an existing franchise shall be for
10 a greater period than twenty-five years for any one renewal, but
11 any such extension or renewal may be succeeded by similar re-
12 newals. Subsequent grants made to the holder of a prior grant,
13 if of the same nature and purpose as the original, shall be made
14 to expire at the same time with the original grant.

15 All public franchises shall be granted subject to the right of
16 the board of commissioners by resolution or ordinance, whether
17 so expressed in the said franchise or not, to restrict and control
18 the operation of the grant in the interest of the public welfare;
19 and subject further to the right of the board of commissioners
20 by ordinance to revoke said franchise for violation by the grantee
21 of any of the terms thereof.

Sec. 37. The said board of said city shall have power and
2 authority to control and regulate the construction and repair of
3 all houses and other buildings within the said city, and to provide
4 the granting of building permits; to cause the removal of unsafe
5 walls or buildings, and may upon the petition of any person or
6 persons owning the greater amount of the frontage of the lots

7 abutting on any street between any two cross-streets, or in any
8 square in said city, prohibit the erection on such street, or in
9 such square, of any building or any addition to any building un-
10 less the outer walls thereof be made of brick and mortar or other
11 fireproof materials and to provide for the removal of any building
12 or addition, which shall have been erected contrary to such pro-
13 hibition, at the expense of the owner or owners thereof.

Sec. 38. To carry into effect the enumerated powers herein
2 granted, and all implied powers granted the board under this
3 charter or by general law conferred upon them or which may
4 be hereafter conferred upon the city, or any of its officers, the
5 board shall have power and possess full authority to make all
6 needful ordinances, by-laws, orders and resolutions, not repug-
7 nant to the laws and constitutions of the United States and of
8 this state, and to enforce any and all of such ordinances, by-
9 laws, or resolutions by prescribing for a violation thereof, fines,
10 penalties and imprisonment, either in the county jail of Logan
11 county, or in the city of Logan prison, if there be one, and such
12 fines and penalties shall be imposed and recovered and such
13 imprisonment inflicted and enforced by and under the judgment
14 of the municipal court of this city.

Sec. 39. The city of Logan, under its charter, shall succeed
2 to all of the rights and liabilities of the city of Logan under
3 the charter granted by the acts herein amended, and it shall be
4 liable for all of the debts and obligations of said city the same
5 as if said indebtedness or liabilities were created or incurred by
6 the city of Logan under this charter.

Sec. 40. All ordinances, by-laws, orders and resolutions of
2 the city of Logan in force at the time this act goes into effect,
3 so far as they are not inconsistent with this charter, shall con-
4 tinue in force as ordinances, by-laws, orders and resolutions of
5 the city of Logan, until amended or repealed by the board of
6 said city.

Sec. 41. If any section or part of this act shall be found
2 to be invalid, the same shall not be held to invalidate or impair
3 the validity, force or effect of any other section or part of sec-
4 tion, unless such other section or part is clearly dependent for
5 its operation upon the section or part so held invalid.

Sec. 42. The act of the legislature of West Virginia passed
2 on March five, one thousand nine hundred and seven, creat-

3 ing the municipal corporation of the city of Logan, known as
4 chapter three of the acts of one thousand nine hundred and
5 seven, and chapter eighty-eight of the acts of the legislature,
6 for the year one thousand nine hundred and nine, and chapter
7 eighty-two of the acts of the legislature for the year one thou-
8 sand nine hundred and thirteen, and all acts and parts of acts
9 which are in conflict with and inconsistent with this act, are
10 hereby repealed, but this act shall not be construed to take away
11 any of the powers conferred upon cities or upon the board or any
12 officers thereof by general law, except so far as the same may
13 be consistent with the powers herein granted or the provisions
14 of this charter.

Sec. 43. But it is expressly provided that before this act shall
2 take effect insofar, and insofar only, as the same extends the
3 present limits of the city of Logan to take in additional terri-
4 tory the same shall be ratified by sixty percent of the voters
5 voting on the question residing in and entitled hereunder to vote
6 within the territory defined in section two hereof at an election
7 regularly called for that purpose, within six months from the
8 date this act takes effect, which election shall not be called ex-
9 cept upon petition of two hundred legal voters within the ter-
10 ritory comprising the city of Logan prior to the passage of this
11 act. By this provision is meant sixty percent of the persons
12 voting at such election in such entire territory, and not both sixty
13 percent of the persons voting in the old city of Logan, and also
14 (separately) sixty percent of the persons voting in such new or
15 additional territory.

16 If at said election, if held, there is less than sixty percent of
17 the votes cast at said election in favor of including the addi-
18 tional territory described herein, then the boundary lines of said
19 city shall remain as they are at the present time.

House Bill No. 4

(House Bill No. 4—Mr. Moore, of Marshall.)

AN ACT to amend and re-enact sections four, seven, thirty, thirty-
two, thirty-three and thirty-seven of chapter eighty-two of the
acts of the legislature of West Virginia of the year 1911, and
adding thereto sections sixteen-a and forty-nine-a, relating to the

charter of the city of Moundsville, in the county of Marshall, granting to it additional charter powers, fixing salaries of certain officers and conferring additional power with respect to the correction of sidewalk, street paving and sewer assessments.

Be it enacted by the Legislature of West Virginia:

That sections four, seven, thirty, thirty-two, thirty-three and thirty-seven of chapter eighty-two of the acts of the legislature of West Virginia of the year 1911 be amended and re-enacted so as to read as follows, and that sections sixteen-a and forty-nine-a be added thereto.

Section 4. The officers of said city shall be a mayor, clerk, who shall be ex-officio collector; solicitor, chief of police, health officer, treasurer, street commissioner, city engineer, sewer inspector, and two councilmen from each ward. The mayor and chief of police shall be elected by the qualified voters of said city. The clerk, health officer, solicitor, street commissioner, treasurer, sewer inspector and city engineer shall be appointed by the council, and the councilmen shall be elected by the qualified voters of their respective wards. No person shall be eligible to an elective office unless he is a qualified voter thereof, nor unless he has resided therein for at least six months before his election; and in the case of a councilman, unless he is a bona fide resident of the ward from which he is elected, and a freeholder of said city; and the removal of a councilman from the ward in which he was elected, or his ceasing to be a freeholder in said city, shall vacate his office, and no person shall be eligible to any city office unless he be a taxpayer and a qualified voter thereof.

In addition to the municipal authorities mentioned in this section the council may from time to time create and employ other officers and agents and fix their salaries and compensations.

Sec. 7. The term of office of the mayor and chief of police shall begin on the first Monday in April next succeeding their election and shall be for the term of two years, and until their successors shall have been elected and qualified. The clerk, solicitor, treasurer, health officer, street commissioner, city engineer and sewer inspector shall be appointed by the council and shall hold their office during the pleasure of the council. Any former incumbent shall be ineligible for a second appointment unless he shall have fully settled up the business of his former term or terms. At the

10 first election held after this act goes into effect, there shall be elect-
11 ed a mayor, and chief of police, whose term of office shall begin on
12 the first Monday in April next succeeding their election and shall
13 be for the term of two years, and until their successors are elected
14 and qualified; and one councilman from each ward, whose term
15 of office shall begin on the first Monday in April next succeeding
16 his election, and who shall hold office for the term of four years,
17 and until his successor is elected and qualified. On the same day
18 in each succeeding two years one councilman from each ward
19 shall be elected and shall hold office for four years from the first
20 Monday in April next succeeding his election and until his suc-
21 cessor is elected and qualified. But nothing in the section shall
22 be construed to invalidate the election or term of office of any
23 councilman elected to office and whose term of office began on the
24 first Monday in April in the year 1919, under the provisions of
25 section seven of the charter of said city of the act of
26 one thousand nine hundred and eleven.

27 The council of said city shall have the right to fix a compensa-
28 tion for the members thereof, which compensation, however, shall
29 not exceed fifty dollars per year to each member.

Sec. 16-a. In addition to the powers conferred upon the coun-
2 cil of said city by section sixteen of chapter eighty-two of the
3 acts of the legislature of the year 1911, express power
4 is hereby conferred upon the council to regulate and
5 control by proper ordinances the kind and manner of
6 plumbing and electric wiring to be done in said city and to provide
7 for an inspection of that already done and where found defective to
8 require the same to be put in a sanitary and safe condition and to
9 require permits and bonds from those engaged in said business in
10 said city; to regulate and control airships, airplanes, balloons,
11 wireless stations, and other appliances, for the safety of property
12 and persons in said city; to require plans and specifications for
13 buildings to be erected and repaired in said city to be submitted to
14 council or some officer appointed by council to inspect the same;
15 to regulate the limit within which it shall be lawful to erect any
16 steps, porticos, bay windows, bow windows, show windows, awnings,
17 signs, columns, piers, or other projections or structural ornaments
18 of any kind for the houses and buildings fronting on any street of
19 said city; to establish fire limits and to provide the kind of build-
20 ings and structures that may be erected therein and to enforce all

21 needful rules and regulations to guard against fire and danger
22 therefrom; to require, regulate and control the construction of fire
23 escapes for any buildings or other structures in said city; to regu-
24 late and control the use and storage of gasoline, oil and other in-
25 flammable liquids and to require permits from those engaged in
26 the dry cleaning, dye works and garage business and others in said
27 city using inflammable liquids; to provide for the removal of
28 trees that become obstructions to the sewers, sidewalks, streets and
29 alleys of said city at the expense of the owners thereof, and to re-
30 quire permits to plant trees and to prohibit the planting of trees
31 that in the opinion of council will be detrimental to the sewers,
32 sidewalks, streets and alleys, of said city; to require permits for
33 the placing of signs, billboards, posters and advertisements and to
34 provide for the removal of the same; to take down and remove, to
35 make safe and secure, any and all buildings, walls, structures
36 or super-structures at the expense of the owners thereof, that
37 are or may become dangerous, or to require the owners or their
38 agents to take down and remove them or put them in a safe and
39 sound condition at their own expense; to regulate hacks, taxi cabs,
40 hack stands and taxi cab stands and the rates to be charged by
41 persons, firms and corporations operating the same; to make suit-
42 able regulations in regard to the use of the streets, sidewalks, alleys
43 and public places, by street cars, motor vehicles, traction engines,
44 railroad engines and cars, and to regulate the speed, running and
45 operation of the same so as to prevent injury, inconvenience or an-
46 noyance to the public; to provide for the purity of water, milk
47 meats and provisions offered for sale in said city, and to that end
48 provide for an inspection of the same and make and enforce rules
49 and regulations relating to their sale, and to prohibit the sale of
50 any unwholesome or tainted milk, meat, fish, fruits, vegetables, or
51 the sale of milk containing water or other things not constituting a
52 part of pure milk; to provide for the inspection of dairies and
53 slaughter houses whether in or outside of the city where the milk
54 and meat therefrom are offered for sale within the city, and to pro-
55 hibit the sale of any article deemed unwholesome, and to condemn
56 the same or destroy or abate it as a nuisance; to require physicians
57 to report births, deaths and contagious diseases and to require of
58 them permits to practice their profession in said city; to provide
59 for the appointment of a sewer inspector, city veterinarian, build-
60 ing inspector and city electrician and define their duties and fix

61 their salaries; to regulate and provide for the weighing of produce
62 and other articles sold in said city, and to regulate the transporta-
63 tion thereof, and other things, through the streets, alleys and public
64 places; to have the sole and exclusive right to grant, refuse or re-
65 vote any and all licenses for the carrying on of any business
66 within said city on which the state exacts or may exact a license
67 tax; to restrain and punish vagrants, mendicants, beggars,
68 tramps and prostitutes; to make it unlawful for any common
69 gambler, known thief, common pickpocket or ex-convict (after
70 the latter's release from imprisonment in the penitentiary of
71 this state) to be or remain in said city, and to punish for viola-
72 tion of ordinances passed in pursuance of the powers heretofore
73 and hereby conferred on council even if the offenses under the
74 same shall constitute offenses under the laws of the state of
75 West Virginia or the common law.

Sec. 30. The said clerk shall receive all taxes, assessments,
2 fines and costs and other money due the city authorized by this
3 act, or by any ordinance of the said city, to be paid to the city,
4 and shall receipt for same; he shall keep an accurate account of
5 all money paid to him for the use of said city, showing under
6 separate accounts the amounts received for account of taxes,
7 sewer purposes, street pavement, licenses, fines and costs and of
8 other matters pertaining to his office, which books shall at all
9 times be open to the inspection of the council or to any committee
10 appointed by it for such purpose; he shall pay over promptly all
11 money which he may receive, within five days after the receipt
12 thereof, into the hands of the treasurer of the said city, showing
13 an itemized statement of the several funds included in said pay-
14 ment, taking the treasurer's receipt therefor; he shall keep his
15 office at the office of the mayor, unless otherwise ordered by the
16 council, and shall keep his office open for the transaction of busi-
17 ness during usual business hours, and as may be directed by coun-
18 cil; he shall on or before the first day of January and July of
19 each year and oftener if directed by council, present to the council
20 a full, complete and detailed statement of all money with which
21 he is chargeable, or that has been received by him from all
22 sources up to that time, together with a statement of all money
23 paid to the treasurer, and proper receipts therefor, and he shall
24 at such times return a list of all taxes, levies, assessments and
25 other claims in his hands for collection which he shall not have

26 been able to collect by reason of insolvency, removal, or other cause,
27 to which list he shall append an affidavit that he has used due
28 diligence to collect the several items therein mentioned, but has
29 been unable to do so, and if the council should be satisfied as to
30 the correctness of said list it shall allow him a credit for said
31 claims, but may thereafter take such lawful measures to collect
32 the same as shall be by it prescribed. The said clerk shall re-
33 ceive all taxes on licenses, and receipt to the party paying the
34 same by endorsement upon the permit granted by order of the
35 council and shall charge himself with the amount received from
36 the same, and report to the council at the next regular meeting
37 thereafter, the amount so received, and pay the same over to the
38 treasurer, taking his receipt for the same; he shall upon the ex-
39 piration of his term of office, or upon the order of council, turn
40 over to his successor all money, books of account and other prop-
41 erty of said city in his possession; he shall receive such salary as
42 may be fixed by the council, which shall not be less than at the
43 rate of one thousand dollars, nor more than one thousand five
44 hundred dollars per annum.

Sec. 32. It shall be the duty of the solicitor to prepare, when
2 directed by council, all ordinances for said city, to represent the
3 said city in all matters and proceedings in any court in which the
4 said city is interested, and counsel the said council when request-
5 ed; he shall receive as compensation for his services, to be fixed
6 by the council, not less than four hundred dollars nor more than
7 eight hundred dollars per annum.

Sec. 33. It shall be the duty of the chief of police to preserve
2 the order and quiet in said city, and to see that all subordinate
3 police officers faithfully perform their official duties, and he may
4 for good cause appearing to him, for neglect of duty or insub-
5 ordination, suspend any such officer from duty, and report his
6 action and his reason therefor to the next regular meeting of
7 council for action thereon; he shall make a list of all dogs within
8 said city liable to tax, collect the license tax thereon and pay the
9 same to the clerk, as may be provided by ordinance of said
10 city; he shall be present in police court whenever the same shall
11 be in session, and see that all its orders and requirements are
12 properly executed; he shall with the consent of council entered
13 of record, but not otherwise, appoint one or more policemen, as
14 the council may determine; he shall, before entering upon the

15 discharge of his duties, execute a bond conditioned for the faith-
16 ful performance by him of the duties of his office, and for the
17 accounting for and paying over, as required by law, all money
18 which may come into his hands by virtue of his office, with sure-
19 ties satisfactory to the council, in a penalty of not less than five
20 thousand dollars, as the council may prescribe; he shall receive
21 such salary as may be fixed by council, which shall not be less
22 than one thousand dollars nor more than fifteen hundred dollars.

Sec. 37. The street commissioner shall perform such duties as
2 are now, or which may hereafter be imposed upon him by any or-
3 dinance of said city, and shall receive such compensation as may
4 be fixed by council, which shall be at the rate of not less than
5 one thousand dollars nor more than twelve hundred dollars per
6 annum.

Sec. 49-a. That whenever any assessments for the cost of con-
2 struction of any sidewalk, street paving and sewers as provided by
3 sections forty-seven, forty-eight, and forty-nine respectively of
4 chapter eighty-two of the acts of the legislature of the
5 year one thousand nine hundred and eleven heretofore or hereafter
6 levied, have been or may hereafter be adjudged by the council of
7 said city or any court of this state having jurisdiction, invalid,
8 because of any error or irregularity in the mode or manner of as-
9 sessment, or lack of authority in said city to levy such assessments
10 at the time they were levied, or failure of the council of said city to
11 comply with some requirement of the law relative to such assess-
12 ments, the council of said city shall have the power, at any regular
13 meeting, or special meeting called for the purpose, to re-assess the
14 cost of such sidewalks, street paving and sewers against the real
15 estate benefitted thereby and abutting thereon, in the same manner
16 and proportion as provided in sections forty-seven, forty-eight and
17 forty-nine respectively of chapter eighty-two of the acts of the leg-
18 islature of the year one thousand nine hundred and eleven in the
19 first instances; except before proceeding to make such re-assess-
20 ment, it shall be the duty of said council to give notice to all per-
21 sons interested, by publication for two successive weeks in two
22 newspapers of opposite political faith published in said city, of
23 the time and place of such meeting, and the purpose thereof in
24 relation to such assessments, at which meeting, after a full hear-
25 ing, the council may proceed to re-assess against the real estate, as
26 provided in sections forty-seven, forty-eight and forty-nine respec-

27 tively of chapter eighty-two of the acts of the legislature of the year
28 one thousand nine hundred and eleven the cost of said sidewalks,
29 street paving and sewers, which, when so re-assessed, shall be a lien
30 enforceable against said real estate, and shall be collected, with
31 interest thereon at six per cent per annum, after thirty days
32 from said re-assessment, as is provided in said sections forty-
33 seven, forty-eight and forty-nine respectively of chapter eighty-
34 two of the acts of the legislature of the year 1911 pro-
35 viding generally as to such assessments in the first in-
36 stance; *provided*, that nothing contained herein shall be con-
37 strued to authorize said council to re-assess the cost of any side-
38 walks, street paving or sewers which have been constructed, and
39 the original assessment therefor levied for more than fifteen
40 years, prior to the passage of this act, and unless said city, since
41 the construction thereof, has maintained and is still maintaining
42 the same at its expense; *provided further*, that nothing contained
43 herein shall be construed to authorize the council of said city to
44 re-assess upon any real estate the cost of any sidewalks, street
45 paving or sewers, when the original assessment against such real
46 estate was paid by the owner thereof, and when any part of the
47 original assessment against any real estate was so paid, the coun-
48 cil shall re-assess against such real estate only the residue of its
49 proportionate share of the cost of said sidewalks, street paving or
50 sewers, after crediting thereon the amount so paid.

51 The council is hereby given full power and authority to correct
52 erroneous assessments of sidewalks, street paving and sewers, and
53 in cases where the same have not heretofore been made and the
54 property benefitted by such improvements has been omitted from
55 assessment for the same, the council shall by resolution as here-
56 inbefore provided levy assessments against the same in the mode
57 and manner herein provided.

58 Sections four, seven, thirty, thirty-two, thirty-three and thirty-
59 seven of chapter eighty-two of the acts of the legislature of the
60 year one thousand nine hundred and eleven in so far as they are
61 in conflict herewith are hereby repealed.

House Bill No. 116

House Bill No. 116—Mr. Brown.

AN ACT to incorporate the city of New Cumberland in the county of Hancock, state of West Virginia, fixing its corporate limits and prescribing and defining the powers and duties of said city.

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of so much of the county of Hancock as are within the bounds prescribed by section two of this act, now and hereafter residing within said bounds, shall be and they are hereby constituted a body politic and corporate, by and under the name of the "City of New Cumberland", and as such, and in that name, shall have perpetual succession and a common seal and may sue and be sued, contract and be contracted with, purchase, lease, hold and use real and personal property for municipal purposes, and, generally, shall have the rights, powers and franchises belonging or appertaining to municipal corporations in the state of West Virginia.

Boundaries.

Sec. 2. The boundaries of the said city shall be as follows: Beginning at the mouth of Deep Cut run, on the south side thereof, and at low water mark in the Ohio river; thence up said run N. $63\frac{1}{4}^{\circ}$ E. 26 rods to a large elm tree standing on the south bank of said run; thence N. 10° E. 23 rods to a stone on the north side of said run; thence S. 85° E. crossing said run to a rock 11 rods; thence S. 19° W. 78 rods to a dogwood corner to Smith Porter & Co.; thence by line of Jeremiah Smith S. 23° E. 6.5 rods; thence N. 13° E. 4 rods to a stone; thence by lands of said Smith and Gregory heirs S. $30\frac{1}{4}^{\circ}$ E. 67.5 rods to a stone in John B. Chapman's line; thence S. 70° W. 17.5 rods to the east side of a twelve foot alley; thence with said alley S. 21° E. 42.7 rods to the lands of Fickes; thence with said Fickes line N. 69° E. 2.4 rods; thence S. 36° E. 15 rods; thence S. 69° W. 6.5 rods to the east side of said alley; thence with the same S. 21° E. 22 rods to the line of Smith Porter & Co.; thence N. 69° E. 21.7 rods; thence S. 24° E. 28.5 rods; thence S. $66\frac{1}{2}^{\circ}$ W. 3 rods to corner of G. W. Newman; thence S. $29\frac{1}{2}^{\circ}$ E. 9.2 rods; thence S. $62\frac{1}{2}^{\circ}$ E. 17 rods to a pile of rocks; thence S. 29° E. 54.4 rods to three white oak

20 stumps, original corner to Campbell, Cuppy and Chapman; thence
21 S. $54\frac{1}{2}^{\circ}$ E. 36 rods to stone corner to New Cumberland Ceme-
22 tery, and with the same N. 16° W. 10.5 rods to center of road;
23 thence N. 50° E. 4 rods; thence N. 42° E. 12 rods; thence N. 56°
24 E. 25 rods.; thence N. 50° E. 7 rods; thence S. $71\frac{1}{2}^{\circ}$ 58 rods;
25 thence S. $66\frac{1}{2}^{\circ}$ W. 23.1 rods to line of Mrs. Headley; thence S.
26 55° E. 33.3 rods to a red oak stump; thence N. 67° E. 34.5 rods;
27 thence S. $81\frac{3}{4}^{\circ}$ E. 31.2 rods to cross on rock on the north side of
28 Hardin's run; thence with line of E. Stewart S. 25° E. 8.5 rods;
29 thence S. 42° W. 50.8 rods; thence S. 65° W. 22 rods to line of
30 lands of S. F. Grier; thence S. 32° E. 35 rods; thence with line
31 of J. H. Ahkinson, James M. Porter and John Porter S. $43\frac{1}{2}^{\circ}$
32 E. 79 rods to a stone; thence S. 89° E. 20.5 rods; thence S. 2°
33 E. 40 rods; thence S. 9° E. 49 rods to a hickory corner to Rose-
34 berry; thence with Roseberry line S. 48° W. 61 rods; thence S. 55°
35 W. 41 rods; thence S. 14° E. 60 rods to corner to Ballantyne;
36 thence with Ballantyne line N. 50° W. 15 rods; thence N. 88°
37 W. 25 rods to low water mark in the Ohio river; thence west to
38 the west line of West Virginia; thence up the Ohio river with the
39 said west line of West Virginia 800 rods; thence east across the
40 said river to the place of beginning; excepting however from the
41 said boundaries the county bridges over Deep Cut run and over
42 Hardin's run with their abutments, which otherwise would be in-
43 cluded within said boundaries.

Officers.

Sec. 3. The officers of said city shall be a mayor, recorder, chief
2 of police and six councilmen. The recorder shall be *ex-officio*
3 assessor and the chief of police shall be *ex-officio* collector and
4 treasurer thereof. The said officers shall be elected by the qualified
5 voters of said city. The mayor, recorder and six councilmen shall
6 constitute the common council of the said city, which common
7 council may, at its discretion, appoint a street commissioner, city
8 solicitor and such other officers as may be deemed necessary from
9 time to time, and fix the terms, duties and compensation there-
10 for. No person shall be eligible to any elective office in said city
11 unless he be a qualified voter therein, nor unless he has resided
12 therein for at least six months next preceding his election; and
13 no person shall be eligible to the office of mayor, recorder or coun-
14 cilman unless he was assessed with and paid taxes on not less than
15 one hundred dollars valuation of real or personal property in said

16 city, for the year prior to his said election; and if any such officer
17 shall during his term of office, cease to own and pay taxes on the
18 said amount of real or personal property, his office shall thereby
19 become vacant.

Sec. 4. The municipal authorities of said city shall consist of
2 the mayor, recorder and councilmen, who together shall constitute
3 a common council as hereinbefore set out; and all the corporate
4 powers of said corporation shall be exercised by said council, or
5 under its direction, except wherein otherwise provided herein.

Act to Take Effect, When; Elections; Certain Powers Granted.

Sec. 5. This act shall take effect on the first Tuesday after the
2 first Monday in August, one thousand nine hundred and twenty-
3 one, at which time the first election for city officers shall be held.
4 Said election shall be held and conducted, and the results thereof
5 ascertained, returned and determined, under such rules and regu-
6 lations as may be prescribed by the council of the town of New
7 Cumberland, the same being consistent with the general laws of
8 the state governing municipal elections, and shall conform as
9 nearly as may be thereto; but the proclamation calling said elec-
10 tion shall, in addition to the usual matters in such proclamations
11 contained, call attention to this act, and state fully the boundaries
12 of the city of New Cumberland hereinbefore contained. On the
13 said last named day there shall be elected a mayor, recorder, chief
14 of police and six councilmen, the mayor, recorder and chief of
15 police shall be elected for a term of two years, and one council-
16 man from each ward shall be elected for a term of two years and
17 one councilman from each ward to be elected for a term of four
18 years, thereafter, there shall be elected each two years, a mayor,
19 recorder, chief of police and one councilman from each ward. The
20 term of office of each municipal officer shall commence on the first
21 day of September next succeeding his election.

Sec. 6. Elections shall be held thereafter biennially, on the
2 Tuesday following the first Monday of August; said elections shall
3 be held and conducted and the results thereof ascertained, re-
4 turned and determined, under such rules and regulations as may be
5 prescribed by the common council of the city of New Cumberland,
6 the same being consistent with the general laws of this state gov-
7 erning municipal elections, and shall conform as nearly as may
8 be thereto.

Sec. 7. During the interim between the time when this act shall

2 take effect and the first day of September following, the present
3 officers of the town of New Cumberland shall have and exercise
4 over all of the territory of the city of New Cumberland, the same
5 authority and jurisdiction herein given to the officers of the said
6 city; *provided*, that if the officers of the city of New Cumberland,
7 elected at the first election herein mentioned, have not qualified
8 as hereinafter provided, the said officers of the town of New Cum-
9 berland shall continue to exercise their said functions until all the
10 legal requirements for such officers are fulfilled.

Terms of Office.

Sec. 8. The term of office of the mayor, recorder, chief of police
2 and councilmen shall beagin on the first day of September next
3 succeeding their election, and the term of office of the mayor,
4 recorder and chief of police, shall continue for two years and until
5 their successors shall have been elected and qualified. The term
6 of office of councilman shall continue for four years and until
7 their successors shall have been elected and qualified. The ap-
8 pointive officers herein mentioned shall hold office for the term of
9 two years unless sooner removed by council for cause. Any
10 former incumbent shall be ineligible for reappointment unless he
11 shall have settled up the business of his former term.

Sec. 9. Every person elected or appointed to any office in said
2 city shall, within fifteen days after his election or appointment,
3 and before entering upon the discharge of the duties of his office,
4 take and subscribe to the oath of office required by law for officers
5 generally, which oath may be administered by the mayor or re-
6 corder of said city, or by any person authorized to administer oaths
7 under the laws of West Virginia. Said oath together with the
8 certificate of the person administering the same shall be filed with
9 the recorder of said city.

Council.

Sec. 10.—The council of the said city shall have the right to fix
2 a compensation for the members thereof, which said compensation,
3 however, shall not exceed two dollars for each meeting actually at-
4 tended, and in no event shall exceed twenty-four dollars per annum
5 for each member. The council shall prescribe the duties and pow-
6 ers of all officers by it appointed, except so far as the same are
7 by this act defined; shall fix their compensation, and may require
8 and take from them, respectively, bonds payable to the city in its

9 corporate name with such sureties and in such penalties as may be
10 deemed proper, conditioned for the faithful performance of their
11 duties.

Sec. 11. The council shall require and take from all officers
2 elected or appointed as aforesaid, whose duty it shall be to receive
3 funds, assets or property belonging to the city, or have charge of
4 the same, such bonds, obligations or other writings as may be deem-
5 ed proper to secure the faithful performance of their several duties.
6 All bonds, obligations or other writings taken in pursuance to
7 any of the provisions of this act shall be made payable to the city
8 of New Cumberland with such sureties and in such penalties as
9 may be deemed proper, conditions for the faithful performance of
10 their duties and for the accounting for and paying over, as requir-
11 ed by law, all money or property coming into their hands by virtue
12 of their offices, and the respective persons and their heirs, execu-
13 tors and assigns bound thereby, shall be subject to the same pro-
14 ceedings on said bonds and other writings, for the enforcement of
15 the conditions thereof, by motion or otherwise, before any court
16 of competent jurisdiction held in and for the county of Hancock,
17 that collectors of county levies and other sureties are or shall be
18 subject to on their bonds for enforcing the payment of county
19 levies.

Sec. 12. The council shall have authority to remove from
2 office any elected officer for misconduct or neglect of duty, by an
3 affirmative vote of not less than four members of council, but only
4 after reasonable notice to such officer and a hearing of the charges
5 preferred. And failure of the mayor, recorder or any councilman
6 to attend the regular meetings of council for four consecutive
7 meetings without reasonable excuse therefor, shall vacate his said
8 office. Any vacancy in office, however occasioned, shall be filled
9 by the council for the unexpired term.

Sec. 13. The council shall fix the time and place of holding its
2 regular meetings; may provide for adjourned and special meet-
3 ings; shall have power to compel the attendance of its members;
4 and may prescribe rules and regulations, not inconsistent herewith.
5 for the transaction of business and for its own guidance and
6 government. The council shall be presided over at its meetings
7 by the mayor, or in his absence by the recorder, or in the absence
8 of both the mayor and recorder, then one of the councilmen select-
9 ed by a majority of the council present, who may vote on any
10 question as a member of council. The mayor shall have a vote

11 only in the case of a tie and in no case shall the presiding officer
12 have more than one vote. A majority of the council shall be
13 necessary to constitute a quorum for the transaction of business.
14 No member of the council shall vote upon or take part in the con-
15 sideration of any proposition in which he is or may be interested
16 otherwise than as a resident of said city.

Sec. 14. The council shall cause to be kept by the recorder in a
2 well bound book to be called the "minute book" an accurate rec-
3 ord of all its proceedings, ordinances, acts, orders and resolutions,
4 and in another to be called the "ordinance book," accurate copies
5 of all ordinances adopted by the council, both of which shall be ful-
6 ly indexed and open to the inspection of anyone required to pay
7 taxes to the city, or who may be otherwise interested. All oaths
8 and bonds of officers of the city and all papers of the council shall
9 be endorsed, filed and securely kept by the recorder, except the
10 bond of the recorder, which shall be filed with the mayor. All
11 printed copies of such ordinances, purporting to be published un-
12 der authority of the council, and transcripts of such ordinances,
13 acts, orders and resolutions, certified by the recorder under the
14 seal of the city, shall be deemed *prima facie* correct, when sought
15 to be used as evidence in any court or before a justice.

Sec. 15. At each meeting of the council the proceedings of the
2 last meeting shall be read, and, if erroneous, corrected, and sign-
3 ed by the presiding officer for the time being. Upon the call of any
4 member the yeas and nays on any question shall be taken and re-
5 corded in the minute book. And the yeas and nays shall be taken
6 on all propositions for the expenditure of money belonging to the
7 city.

Sec. 16. No ordinance or by-law and no resolution or measure
2 for the expenditure of money other than to defray the current ex-
3 penses of the city, shall be deemed passed or adopted unless it shall
4 have been fully read at two consecutive meetings of the council and
5 shall have received a majority of the votes of the members pres-
6 ent, when it shall stand and be declared adopted and not other-
7 wise.

Wards.

Sec. 17. The territory of the said city shall be divided into
2 three wards as follows:

3 That portion lying north of the center line of Jefferson street,

4 shall constitute the first ward.

5 That portion thereof lying south of the center line of Jeffer-
6 son street and north of the center line of Sedgewick street shall
7 constitute the second ward.

8 That portion lying south of the center line of Sedgewick street
9 shall constitute the third ward.

10 The lines between the wards are understood to run from the
11 western boundary of the city to the eastern boundary thereof by
12 lines projected through the center of each of the said streets.

Of the Council—Its General Powers.

Sec. 18. The council of the said city shall have plenary power to
2 lay off, open, alter, close, vacate, grade and keep in repair the
3 roads, streets, alleys, pavements, sidewalks, cross-walks, drains,
4 and gutters for the use of citizens or of the public and to improve
5 and light the same, and to keep the same free from obstructions of
6 every kind; to regulate the width of pavements and sidewalks on
7 the streets and alleys, and to order and require the pavements,
8 sidewalks, footways, drains and gutters to be kept in good order,
9 free and clear, by the owners or occupants of the real property next
10 adjacent thereto; to prevent injury or annoyance to the public or to
11 individuals from anything dangerous, offensive or unwholesome;
12 to prohibit or regulate slaughter houses and soap and glue factories
13 within the city limits, or the exercise of any unhealthy or offensive
14 business, trade or employment; to abate all nuisances within the
15 city limits, or to require and to compel the abatement thereof,
16 by or at the expense of the person causing the same, or at the
17 expense of the owner or occupant of the ground upon which they
18 are placed or found; to cause to be filled up, raised or drained by
19 or at the expense of the owner, any city lot or tract of land cov-
20 ered or subject to be covered by stagnant water; to prevent horses,
21 hogs, dogs, cattle, sheep, or other animals and fowls of all kinds,
22 from going or being at large within said city, and, as one means
23 of prevention, to provide for empounding and confining such
24 animals and fowls, and, upon failure to reclaim, for the sale there-
25 of; to protect places of divine worship and to preserve order within
26 and about the premises where and when such worship is held; to
27 regulate the keeping of gun powder and other inflammable, ex-
28 plosive and dangerous substances; to control and regulate skating
29 rinks, billiard and pool rooms, bowling alleys and dance halls,
30 and to fix the time for opening and closing the same; to provide

31 for, construct and maintain an adequate sewerage system; to pro-
32 vide for and regulate the building of houses and other structures
33 within the city and for maintaining of division fences by owners
34 of adjoining premises, and for the proper drainage of city lots and
35 other parcels of land by or at the expense of the owner or occupant
36 thereof; to provide against fire; to punish for assault and battery
37 and petit larceny; to arrest, convict and punish any person for
38 gambling or keeping or exhibiting gaming tables, commonly called
39 A. B. C. or O. E. tables, or faro bank or keno table, or table of like
40 kind, under any denomination, whether the game or table be play-
41 ed with cards, dice or otherwise, or shall be a partner or concerned
42 in interest in the keeping or exhibition of such table or bank, or
43 keeping or maintaining any gaming house or place, or betting or
44 gambling for money or anything of value, or playing cards in any
45 public place; suppress houses of ill-fame and to arrest and punish
46 persons loitering in, or visiting them, or loitering upon the streets;
47 to prevent lewd and lascivious conduct; the sale of indecent pic-
48 tures or other representations; the desecration of the Sabbath day;
49 profane swearing; the illegal sale of all intoxicating liquors,
50 drinks, mixtures and preparations, beer, ale, wine, or drinks of a
51 like nature; to protect the persons of those residing within the
52 said city; to appoint, when necessary or advisable, a police force,
53 permanent or temporary, to assist the chief of police in the dis-
54 charge of his duties; to build or purchase, or lease and use, a suit-
55 able place within or near the said city for the safe keeping or
56 punishment of persons charged with or convicted of the violation
57 or ordinances; to provide for the employment of persons convict-
58 ed of the violations of the ordinances or who may be committed in
59 the default of the payment of fines, penalties or costs, and who are
60 otherwise unable to discharge the same, by putting them to work
61 for the benefit of the city, and to use such means to prevent their
62 escape, while at work, as they may deem expedient; to erect, or
63 authorize or prohibit the erection of gas works, electric light
64 works or water works within the city limits; to prevent injury
65 to such works or the pollution of any gas or water used or intended
66 to be used by the public or by individuals, and to do all things
67 necessary to adequately supply said city and the inhabitants thereof
68 with pure, healthful and wholesome water; to use, generate, distri-
69 bute, sell and control electricity and gas for heat, light and power
70 and to furnish light for the streets, houses, buildings, stores, and

71 other places in and about said city ; to provide a sewerage system for
72 said city ; to provide for and regulate the weighing and measuring
73 of hay, coal, lumber and other articles sold or kept or offered for
74 sale within said city ; to regulate the running and speed of engines,
75 cars and other motor vehicles within the said city ; to organize one
76 or more fire companies and provide necessary apparatus, tools,
77 implements, engines, or any of them, for their use, and in their dis-
78 cretion to organize a paid fire department ; to make regulations with
79 respect to the erection and location of all pipes, conduits, and tele-
80 phone, telegraph, electric light or other poles within said city, and
81 the extension of any wires, lines and poles by any individuals or
82 corporations ; to create by ordinances such committees or boards,
83 and delegate such authority thereto, as may be deemed necessary
84 or advisable ; to provide for the annual assessment of the property
85 therein, including dogs kept within said city, and to provide a rev-
86 enue for the city for municipal purposes, and to appropriate such
87 revenue to its expenses, and, generally, to take such measures as
88 may be deemed necessary or advisable to protect the property, pub-
89 lic and private, within the city ; to preserve and promote the
90 health, safety, comfort and well being of the inhabitants thereof.
91 The council of said city shall have the power and authority to con-
92 trol and regulate the construction and repair of all houses and oth-
93 er structures and buildings within said city ; to provide for the
94 granting of building permits ; to cause the removal of unsafe walls
95 or buildings ; and may prohibit the erection in any street or on any
96 square, of any building or structure, or addition thereto, unless the
97 outer walls thereof be made of brick and mortar or other fireproof
98 material ; and to provide for the removal of any building or addi-
99 tion which shall have been erected contrary to such prohibition,
100 at the expense of the owner or owners thereof.

Franchises.

Sec. 19. No franchise shall hereafter be granted by the council
2 of the said city, where the application for such franchise has not
3 been filed at least thirty days prior to the time at which application
4 is to be acted upon by the said council, with the recorder of the
5 city, and notice of such application, stating the object of such
6 franchise, shall have been given by publication for thirty days in
7 two newspapers of general circulation and of opposite politics,
8 published in said city. Nor shall such franchise be granted

9 within thirty days after the application has been filed,
10 nor until an opportunity has been given any citizen
11 or corporation interested in the granting or refusing of said fran-
12 chise to be heard. Nor shall any franchise be hereafter granted by
13 the said council for a longer period than fifty years. *Provided,*
14 *however,* that nothing in this act shall prevent the renewal of such
15 franchise for a term of not to exceed fifty years when the same
16 shall have expired. No grant of such franchise shall be made
17 without at the same time providing that the grantee, its or his
18 successors and assigns shall indemnify the city against all loss,
19 costs and damages that may accrue or be awarded against it by
20 reason of the construction, operation or maintenance of such work.

Sec. 20. To carry into effect these enumerated powers and all
2 others by this act or by general law conferred, or which may be
3 be hereafter conferred upon the said city or its council or any of
4 its officers, the said council shall have and possess full authority
5 to make, pass and adopt all needful ordinances, by-laws, orders
6 and resolutions not repugnant to the constitution and laws of the
7 United States or of this state; and to enforce any and all such
8 ordinances, by-laws, orders and resolutions by prescribing, for
9 violations thereof, fines and penalties and imprisonment in either
10 the county jail of Hancock county or the city prison if there be
11 one; but no fine shall exceed fifty dollars, and no term of imprison-
12 ment shall exceed sixty days. Such fines and penalties shall be
13 imposed and recovered, and such imprisonment inflicted and en-
14 forced by and under the judgment of the mayor of the said city, or
15 in case of absence or inability to act, of the recorder of said city,
16 or in case of the absence or inability to act of both of said officers,
17 then by one of the councilmen appointed for that purpose by the
18 council.

Mayor.

Sec. 21. The mayor shall be the chief executive officer of the
2 city and shall see that the orders, by-laws, ordinances and regula-
3 tions of the council thereof are faithfully executed; he shall be
4 *ex-officio* a justice and conservator of the peace within the city
5 and shall have within possession of and may exercise all of the pow-
6 ers and perform all the duties, whether in civil or criminal pro-
7 ceedings, vested by law in a justice of the peace. Any summons,
8 warrant or other process issued by him may be executed at any
9 place within the county of Hancock; he shall have power during

10 the recess of the regular meetings of council to appoint special
11 police officers when he shall deem it necessary, and it shall be
12 his duty to see that the peace and good order of the city are pre-
13 served and that persons and property therein are protected; and
14 to this end he may arrest and detain, or cause the arrest and de-
15 tention of all riotous and disorderly persons before taking other
16 proceedings in the case; he shall from time to time recommend to
17 the council such measures as he may deem needful for the welfare
18 of the city; he shall not receive any money due or belonging to
19 the state or corporations, or to individuals, unless and until he
20 shall have given the bond and security required of a justice of the
21 peace by chapter fifty of the code of West Virginia; and all of the
22 provisions of said chapter relating to moneys received
23 by justices shall apply to moneys received by him in
24 like cases. The mayor shall receive a salary of not
25 less than one hundred dollars nor more than three hundred dol-
26 lars per annum; such salary shall be in lieu of the fees which
27 would otherwise accrue to him in proceedings for the enforcement
28 of ordinances, but all such fees shall be collected, when practicable,
29 and accounted for to the city, and he may tax such costs against
30 any person or corporation found guilty of the violation of any
31 ordinance of the city as are provided to be taxed and recovered
32 by justices of said county in criminal cases.

Sec. 22. The process in proceedings to enforce any ordinances
2 prescribing a fine or imprisonment or fine and imprisonment, for
3 the violation thereof, shall be a summons in the name of the city
4 of New Cumberland as plaintiff, directed to the chief of police, or
5 to one of the regular police officers of the city, or to any constable
6 of the district within which the said city is located requiring him
7 to summon the person accused of such violation, and who shall
8 thereafter be designated as defendant, to appear before the mayor
9 at the time and place therein named to make answer to such ac-
10 cusation and be dealt with according to law. Such summons shall
11 contain such statement of the facts alleged as will inform such per-
12 son of the general nature of the offense against the city of which
13 he stands charged, and except in case of arrests upon view, shall
14 be issued only on the complaint, on oath, of some credible per-
15 son. But the mayor for good cause appearing, by endorsement of
16 the summons, may order the person so accused to be forthwith ap-
17 prehended and brought before him for hearing of the charge. The

18 recorder of said city, as well as the mayor, shall have authority
19 to receive any complaint in writing of the violation of any ordin-
20 ance, and to sign and issue the proper summons based upon such
21 complaint. The mayor shall have and possess, and may exercise
22 the power and authority belonging to a justice under sections two
23 hundred and twenty-four and two hundred and twenty-five of
24 chapter fifty of the code of West Virginia, in summoning and en-
25 forcing the attendance and examination of witnesses; in punishing
26 for contempt; in granting continuances; and in securing and en-
27 forcing the further attendance of the accused for a trial or hearing.
28 If any recognizance be taken for such further attendance, and it
29 is forfeited, the mayor may record the default and an action may
30 be maintained in the name of the city, before the mayor, or any
31 justice having jurisdiction against the accused and his sureties, if
32 any, to recover the penalty thereof.

Sec. 23. The mayor shall have power to issue an execution for
2 any fine and costs assessed by him for the violation of any ordin-
3 ance, or he may at the time of rendering judgment therefor, or at
4 any time thereafter and before satisfaction of such judgment, or
5 by his order in writing require immediate payment thereof; and in
6 default of such payment he may cause the person so in default to
7 be apprehended and brought before him, and commit him to the
8 jail of Hancock county until such fine and costs are fully paid;
9 but such imprisonment shall not exceed sixty days. The county jail
10 of Hancock county is hereby made the jail for the city of New
11 Cumberland.

Sec. 24. The jailor of Hancock county is hereby made *ex-*
2 *officio* the jailor for the said city, and he shall receive into his
3 custody and confine in said jail, all persons committed under the
4 authority of the city, and shall provide for their safety and com-
5 fort, and, from time to time report to the council, he shall receive
6 the same fees for receiving and discharging and for feeding the
7 prisoners committed to said jail under the authority of said city
8 that are allowed by law for prisoners committed by authority of
9 the state or county, which said fees shall be paid by the city, on
10 the orders of the council.

Mayor's Docket.

Sec. 25. A book well bound and indexed, to be denominated the
2 "docket," shall be kept in the office of the mayor, in which shall

3 be noted each case brought before or tried by him, together with
4 the proceedings therein, including the statement of complaint, the
5 summons, the return thereof, the fact of appearance or non-ap-
6 pearance of the accused, the defense, the hearing, the judgment,
7 the costs and, in case the judgment be one of conviction, the ac-
8 tion taken to enforce the same. The record of such case shall be
9 signed by the mayor or other person acting in his stead, and the
10 original papers thereof, if no appeal be taken, shall be kept to-
11 gether and preserved in his office.

Appeals.

Sec. 26. In any case for the violation of an ordinance of the
2 said city, in which there is a judgment by the mayor of imprison-
3 ment, or for a fine of not less than ten dollars, an appeal shall
4 lie, at the instance of the person against whom such judgment is
5 rendered, to the circuit court or any other court of record of Han-
6 cock county, such appeal shall not be granted by the mayor, unless
7 within ten days from the date of the judgment, such person shall en-
8 ter into recognizance, with security deemed sufficient, in a penalty
9 double the amount of the fine and costs, with condition that the
10 person appealing will appear before such court on the first day of
11 the next term thereof to answer for the offense against the city
12 with which he stands charged, and not thence depart without leave
13 of the said court, and will perform and satisfy any judgment which
14 may be rendered against him by the said court on such appeal.

Sec. 27. If such appeal be taken the mayor shall forthwith
2 deliver to the clerk of the said court the complaint in writing, if
3 any, the summons, a transcript of the record including the judg-
4 ment, the recognizance and any other papers belonging to the case,
5 and shall note the taking of such appeal on his docket; the said
6 clerk shall receive and file the same and place the case on the trial
7 docket of the next succeeding term of said court, and the said
8 court shall proceed to try the same in its order.

Sec. 28. If the appellant be found guilty of the violation of the
2 ordinance in question, whether upon the verdict of a jury or other-
3 wise, the court shall ascertain by its judgment the fine or im-
4 prisonment, or the fine and imprisonment to be paid or suffered
5 by such defendant, having regard to the punishment prescribed
6 by such ordinance, and shall include in any such judgment the
7 costs incurred by said city, as well as the proceedings before the
8 mayor as those in court, including a fee to the attorney for the

9 city of ten dollars, and the fees, if any, of the jailor; and the
10 proceedings to enforce the collection of any such fine and costs
11 as may be provided in sections ten, eleven and twelve of chapter
12 thirty-six of the code of West Virginia, except that the writ men-
13 tioned in the tenth section may be issued by the clerk on the or-
14 der of the mayor of the city, and the notice contemplated by the
15 eleventh section shall be given to such officer.

Sec. 29. For all judgments by the mayor, in cases other than
2 for violation of ordinances, appeals shall be allowed as in similar
3 cases before justices.

Recorder.

Sec. 30. It shall be the duty of the recorder to keep a journal
2 of the proceedings of the council and have charge of and preserve
3 the records, papers, contracts and other documents belonging to the
4 city. He shall in case of sickness or disability of the mayor to
5 act, or in case of his absence from the city, or during any vacancy
6 in the office of mayor, perform the duties of mayor, and shall be
7 vested with all of the powers necessary for the performance of
8 such duties, including the right and duty to collect fines, for-
9 feitures and licenses due the said city, and account for the same
10 to the treasurer thereof; he shall also perform such other duties
11 pertaining to the fiscal affairs of the city, or otherwise, as may be
12 required of him by this act or by council. All license taxes
13 shall be payable on the first day of July of each year, or at such
14 time as such license may be issued.

15 The officer whose duty it is to make out the land and personal
16 property books of Hancock county shall, annually, at such com-
17 pensation as agreed upon with council, not later than the fifth day
18 of August, furnish to the recorder, showing in separate amounts
19 the aggregate personal property and the aggregate value of all
20 of the real estate in the city as ascertained from the land and
21 personal property books of said county for the current year. Upon
22 receiving said statement the recorder shall present the same to the
23 council at a meeting to be held not later than the second Tuesday
24 in August, for the purpose of determining the rate of levy in said
25 city for the current year. As soon as the rate of levy shall have
26 been fixed by council, the recorder, as *ex-officio* assessor for the
27 city shall ascertain the tithables and property, real and personal
28 within the city subject to taxation and shall make return thereof
29 to the council at such time as may be prescribed, substantially in

30 the manner and form as in cases of assessments by county assessors,
31 and to this end he shall have access to the current assessments
32 made for county of Hancock for state and county purposes.
33 The current assessments for state and county purposes shall be
34 used and adopted by him; but as to persons and property within
35 the city not included in such assessment, he shall ascertain the
36 same, fix the value of such property and include the same in his
37 assessment; but the council may correct any error on his part in
38 this regard, upon application of any person aggrieved. In the
39 discharge of his duties hereunder the recorder shall have the same
40 powers as are conferred by law on county assessors. After such
41 assessment has been completed, the recorder shall make up a com-
42 plete book and list of all tithables and of all real and personal
43 property, separately stated, with the levy extended therein, show-
44 ing the amount of taxes due to the city from each tax payer there-
45 in, and shall deliver the same to the chief of police who is *ex-*
46 *officio* collector and treasurer of the city, not later than the first
47 day of October following the levy, whose receipt therefor shall
48 be returned to the council and entered upon its record, and the
49 chief of police shall be charged therewith.

Sec. 31. The said recorder shall prepare the bills for all license
2 taxes due said city, whenever the same shall become due and pay-
3 able, and turn said bills over to the chief of police, charging him
4 therewith. The said chief of police shall proceed at once to col-
5 lect all such taxes on licenses, and account to the council there-
6 for as required herein for other collections. The recorder shall
7 keep his office at the office of the mayor, unless otherwise or-
8 dered by council, and shall keep his office open for the transaction
9 of business during such business hours as may be necessary for the
10 proper performance of his several duties. It shall be his duty to
11 prepare the annual financial statement of said city, and when
12 approved by the committee on finance, to cause the same to be
13 published in two newspapers published in said city; the said
14 recorder shall receive such compensation as may be fixed by the
15 council from term to term which shall not be less than one hun-
16 dred dollars nor more than three hundred dollars per annum.

Treasury.

Sec. 32. The council of said city, at its first meeting for the
2 term for which its members are elected, shall designate some bank
3 in said city, treasury or depository for the funds of the city, for

4 a term of two years. Such bank shall receive and receipt for all
5 money deposited therein by the mayor, chief of police, or other
6 officer, derived from any and all sources. The funds so de-
7 posited in such bank shall be paid out by it only on checks drawn
8 and signed by the chief of police. Such bank shall, before re-
9 ceiving any money belonging to the city, execute the bond required
10 by section ten of this act.

Solicitor.

Sec. 33. The council shall at its first meeting after each elec-
2 tion appoint a solicitor for said city, who shall be a practicing
3 attorney residing in said city. It shall be the duty of such
4 solicitor to prepare, when directed by the council, all ordinances
5 for the said city; to represent the said city in all matters and
6 proceedings in any court in which the city is interested; and to
7 advise the council on all legal questions when requested to do so.
8 He shall hold his office for a term of two years, unless sooner re-
9 moved by council for cause shown, and shall receive as compensa-
10 tion an annual salary of not less than one hundred dollars nor
11 more than three hundred dollars, and in addition thereto such
12 special fees as may be agreed upon for services rendered in the
13 circuit or other court of record.

Chief of Police.

Sec. 34. It shall be the duty of the chief of police to preserve
2 order and quiet in said city, and to see that all subordinate police
3 officers faithfully perform their official duties, and he may, for
4 good cause appearing to him, for neglect of duty or insubordina-
5 tion, suspend such officer from duty, and report his action and
6 the reason therefor to the next regular meeting of the council for
7 its action thereon; he shall make a list of all dogs within the city
8 limits liable to tax, collect the license tax thereon, and account
9 for same to the council, as may be provided by ordinance of the
10 said city; he shall be present in police court whenever the same is
11 in session, and see that all orders and requirements are properly
12 executed; he shall, with the consent of the council entered of re-
13 cord, and not otherwise, appoint one or more policemen, as the
14 council may determine; he shall, before entering upon the dis-
15 charge of his duties, execute a bond, conditioned for the faithful
16 performance by him of the duties of his office and for the account-

17 ing and paying over, as required by law, of all moneys which may
18 come into his hands by virtue of his office, with sureties satisfac-
19 tory to the council, in a penalty of not less than five thousand
20 dollars nor more than ten thousand dollars, as may be determined
21 by the council, which said bond shall be payable to the city of
22 New Cumberland. The chief of police, on his official bond shall
23 be liable for all of the acts and conduct of the policemen appointed
24 by him.

Sec. 35. In case of a violation of any ordinance of said city
2 is committed in the presence, or within view of the chief of police
3 or other police officer, the offender may be forthwith apprehended
4 and taken before the mayor and a complaint under oath, stating
5 such violation, there lodged against him and filed; and there-
6 upon such offender may be tried and dealt with according to law,
7 without summons. The chief of police shall execute, within
8 the county of Hancock, when directed to him, all proper process
9 issued by the mayor in proceedings for the enforcement of ordin-
10 ances; and shall collect by levy of execution, or otherwise, and
11 duly account for, all fines assessed and costs imposed in such pro-
12 ceedings. He shall also have the right and power within said
13 city, in regard to the arrest of persons, the collection of claims,
14 the execution and return of process, that are or may be lawfully
15 exercised by a constable of any district within the same, and shall
16 be entitled to the same compensation therefor as is provided by
17 law for constables in this state; and he and his sureties shall be
18 liable to all fines, penalties and forfeitures that a constable is
19 liable to, for any dereliction of duty in office, to be recovered in
20 the same manner and in the same courts that such fines, penalties
21 and forfeitures are recovered against constables.

Chief of Police—Ex-Officio Collector.

Sec. 36. When the tax bills of any year have been turned over
2 to the chief of police, as required by section thirty hereof, the
3 chief of police, as *ex-officio* collector, shall give notice that said
4 tax bills are in his hands for collection, stating the penalty for
5 non-payment thereof and the time and place where the same may
6 be paid, which notice shall be given by publication in some news-
7 paper published in said city, and by notices carefully posted on the
8 front door of the mayor's office and not less than four other public
9 places in said city; *provided, however*, that if there should be no
10 newspaper published in said city, then the posting shall be suffi-

11 cient. To all persons who shall pay their taxes in full before
12 the first day of December next succeeding said levy, there shall be
13 allowed a discount of two and one-half per centum on the whole
14 amount of taxes so paid, and not otherwise.

Sec. 37. The said collector shall receive all taxes and other
2 moneys due the city, authorized by this act or any ordinance there-
3 of to be paid to the city, and shall receipt for the same; he shall
4 keep an accurate account of all moneys paid to him for the use of
5 the city, showing under separate accounts the amounts received by
6 him on account of taxes, street pavements, fines, license fees, for-
7 feitures and all other sources; which accounts shall at all times
8 be open to the inspection of the council or to any committee ap-
9 pointed by it for the purpose; he shall within one week after re-
10 ceiving the same, deposit all moneys so collected by him, in the
11 bank designated by the council as treasury or depository, taking a
12 receipt therefor; he shall keep his office in the office of the mayor
13 and shall keep his office open, as much as practicable during busi-
14 ness hours; he shall, at each regular monthly meeting of the
15 council, present to council a full, complete and detailed statement
16 of all money with which he is chargeable, or that has been re-
17 ceived by him from all sources up to that time, together with a
18 statement of all money paid out by him, and proper receipts
19 therefor. The said collector shall, at the first regular meeting
20 of council in the month of August of each year return to and lay
21 before the council, a list of all taxes, fines, penalties and assess-
22 ment in his hands for collection which he shall not have been
23 able to collect by reason of insolvency, removal or other causes, to
24 which list he shall append his affidavit that he has used due
25 diligence to collect the several items therein mentioned, but has
26 been unable to do so. If the council shall be satisfied with the
27 correctness of said list, it shall allow him credit for said claims,
28 but may thereafter take such lawful measures to collect the same
29 as shall be by it prescribed; the same being consistent with the law
30 in such cases made and provided. The said chief of police and
31 *ex-officio* collector shall, upon the expiration of his office, or upon
32 order of council, turn over to his successor all the money, books
33 of account and other property of said city in his possession; he
34 shall receive for his services such salary as may be fixed by the
35 council, not however to be less than fifty dollars nor more than
36 one hundred dollars per month and in addition thereto a commis-

37 sion of five per centum of all moneys collected and disbursed by
38 him. Disbursements shall be made by the chief of police of the
39 funds of the city only upon warrants drawn by order of the coun-
40 cil entered of record, and signed by the mayor and countersigned
41 by the recorder.

Sec. 38. The chief of police (and *ex-officio* collector) shall be
2 chargeable with, and it shall be his duty to collect all city taxes.
3 levies and assessments under such regulations as may be prescribed
4 by law and the ordinances of the said city, and if the same are not
5 paid within one month after the same are placed in his hands for
6 collection, he may distrain and sell therefor in like manner and
7 have the same power and authority possessed by the officer charged
8 with the collection of state taxes. If the said collector shall fail
9 to collect, or account for and pay over any money with which he
10 may be chargeable, belonging to the said city, according to the
11 condition of his bond and the orders of council, it shall be lawful
12 for the council to recover the same by action or upon motion, upon
13 ten days' notice, in the corporate name of the city, in the circuit
14 court of Hancock county, against him and his sureties in his of-
15 ficial bond, or any or either of them, or his or their heirs, execu-
16 tors or administrators.

Health Officer.

Sec. 39. The health officer shall perform such duties as may be
2 provided by any ordinance of said city, or by resolution of the
3 council, and shall receive a salary at the rate of not more than
4 one hundred dollars per annum. He shall receive no compensation
5 from the city, other than the salary herein provided. The council
6 of said city is hereby authorized to provide by ordinance for a
7 municipal board of health.

Street Commissioner.

Sec. 40. The council may appoint some competent person as
2 street commissioner for said city, who shall perform all such
3 duties as may hereafter, by ordinance, be imposed upon him. He
4 shall hold his office for a term of two years and shall receive such
5 compensation as may be fixed by council from term to term.

City Engineer.

Sec. 41. The said council may employ a competent civil engi-
2 eer for said city for such special or general work as said council

3 may from time to time deem advisable, and fix the compensation
4 for same.

Lien for Taxes.

Sec. 42. There shall be a lien on all real estate within said city
2 for the city taxes assessed thereon, and for all fines and penal-
3 ties assessed to or imposed upon the owners thereof by the authori-
4 ties of such city from the time the same are so assessed or im-
5 posed which shall have priority over all other liens, except liens for
6 taxes due the state, county or district; and which shall be enforced
7 by the council in the same manner provided by law for the en-
8 forcement of the lien for county taxes. If any real estate within
9 said city be returned delinquent for the non-payment of taxes
10 thereon, a copy of such delinquent list may be certified by the
11 council to the auditor and the same may be sold for the city taxes,
12 interest and commissions thereon, in the same manner, at the same
13 time and by the same officer as real estate is sold for the non-pay-
14 ment of state taxes.

Licenses Generally.

Sec. 43. The council shall have the authority to require a city
2 license as follows: for anything to be done, carried on or exhibited
3 within the city, for which a state license is now or may here-
4 after be required; for the keeping of hacks, carriages, carts, wagons
5 and other vehicles for hire within the city, and for the keeping
6 of dogs within the city, and council may provide by ordinance
7 for the killing of all dogs the keeping of which is not so licensed;
8 and upon all such licenses the council may impose a reasonable
9 tax for the use of the city.

Sec. 44. The council shall prescribe by ordinance the manner
2 in which licenses of all kinds shall be applied for and granted, and
3 shall require the payment of the taxes thereon to be made to the
4 recorder of the said city before delivery to the person applying
5 therefor. All licenses shall expire on the thirtieth day of June
6 next after they are granted.

Power to Condemn.

Sec. 45. The council shall have the right to institute proceed-
2 ings in the name of the city, for the condemnation of real estate
3 within the city for streets, alleys, avenues, sewers, drains, market
4 ground, landings, city building and city prison and all other works

5 for public use and utility. Such proceedings shall conform to the
6 provisions of chapter forty-two of the code of West Virginia, and
7 the cost thereof shall be borne by the city, except that in contests
8 involving a hearing in the circuit court, costs shall be recovered
9 by the prevailing party.

Sidewalks.

Sec. 46. After having caused a proper grade to be established
2 at the expense of the city, the council may require sidewalks or
3 footways on any streets, avenues or alleys of the said city to be
4 paved with brick, stone or such other suitable material as the
5 council may determine, under the direction of the street commis-
6 sioner, by the owners respectively of the lots, or fractional parts of
7 lots abutting or facing on any such sidewalk or footway; and if
8 the owner of any such sidewalk or footway, or of the real estate
9 next adjacent thereto, shall fail or refuse to pave the same in the
10 manner or within the time required by the council, it shall be the
11 duty of the council to cause the same to be done at the expense of
12 the city, and to assess the amount of such expense upon such own-
13 er, and the recorder shall notify the owner of said lot or part of lot
14 the amount of such assessment, and if said assessment be not paid
15 within thirty days from the date of said notice, he shall cause a
16 memorandum showing the name of the owner of such lot, a
17 description of the said lot and the amount of such assessment to
18 be filed in the office of the clerk of the county court of Hancock
19 county, which shall be entered of record in the judgment lien docket
20 in his office, and the same shall constitute a lien on such property,
21 which may be enforced by a suit in equity, in the name of the
22 city, in the circuit court of Hancock county, as other liens against
23 real estate are enforced; and upon payment of said assessment the
24 recorder shall issue to the person entitled thereto a release of said
25 lien; *provided, however*, that reasonable notice shall first be given
26 to said owners that they are required to construct such sidewalk
27 or footway; and in case the owner is a non-resident of the state,
28 the notice aforesaid may be given by publication for four suc-
29 cessive weeks in two newspapers of opposite politics, published in
30 said city. The provisions of this section shall also be applicable
31 to needed repairs to any of the sidewalks of the city, and to substi-
32 tution of new pavements for any which may have been heretofore,
33 or which may hereafter be laid and completed, and which may be
34 deemed insufficient.

Levy.

Sec. 47. The council shall cause to be made up annually, and spread upon its minute book, an accurate estimate of all sums which are or may become lawfully chargeable against the city, and which ought to be paid within one year, and it shall order at a meeting held by it in the month of August each year, as provided by law, a levy of so much as will, in its judgment, be necessary to pay the same. Such levy shall be upon all real and personal property otherwise subject to state and county taxes, and an annual capitation tax of fifty cents upon each male inhabitant of said city who shall have arrived at the age of twenty-one years; *provided, however,* that such levy shall not exceed the amount prescribed by statute law on each one hundred dollars of the ascertained valuation of such property.

Financial Statement.

Sec. 48. In the month of September of each year the council shall cause to be published in two newspapers of opposite politics, published in the city, at a compensation not to exceed the rate provided by law for like publications, for one issue, a sworn statement of the financial condition of said corporation; and said statement shall be prepared by the recorder of said city, and shall contain an itemized account of the receipts and expenditures of the city showing the source from which all of the money was derived, and the name of the persons to whom orders were issued, together with the amount and number of each order, and why such order was issued, arranging the same under distinct heads; and also a specific list of all of the debts of the city, showing the purpose for which any debt was contracted, the time it becomes due, the rate of interest, up to what time the interest thereon has been paid, the amount of money in the treasury at the end of the preceding administration and the debts contracted by it. Such statement shall be prepared by the city at the close of each fiscal year and then shall be printed according to the provisions of this section. This report shall be sworn to by the recorder and the chief of police and the chairman of the finance committee of council. A copy of such printed report shall be delivered by the recorder to the judge of the circuit court of Hancock county, one to the clerk of the county court and one to the clerk of the circuit court of Hancock county, and one shall be kept as a part of the records of the said city. If council fail

25 or refuse to perform the duties herein named, every member of
26 such council and the recorder and chief of police thereof concur-
27 ring therein, shall be guilty of a misdemeanor and upon convic-
28 tion thereof shall be fined not less than ten dollars nor more than
29 one hundred dollars.

Work Upon Streets.

Sec. 49. Every male resident between the age of twenty-one and
2 fifty years, not a pauper, may be required by the council, by him-
3 self, or an acceptable substitute, under the direction of the street
4 commissioner to work not to exceed three days in each year, on any
5 of the streets and alleys of said city, or he may be released there-
6 from upon the payment to the chief of police of a sum of money to
7 be fixed by the council, to be used solely in making or improving
8 such streets and alleys, and the council shall include in its levy
9 an additional sum ~~that~~ may be necessary to make and keep in order
10 such streets and allays, as well as the drains, gutters, sidewalks
11 and cross walks, and to defray all other expenses incident thereto.
12 The residents of the said city shall be and remain exonerated
13 from the payment of district road taxes assessed by the county of
14 Hancock, and from the performance of labor on roads outside of
15 the corporate limits of said city.

Bonds—Additional Levy.

Sec. 50. The municipal authorities of said city shall have
2 authority and power to issue and make sale of bonds of the said
3 city and to apply the proceeds thereof to the payment for any
4 general improvement therein, or to any debt or obligation of said
5 city which by general statute or this act the said city is permitted
6 or required to pay; and to meet the demands of such bond issue, or
7 issues, the council may levy, in addition to the levy by general
8 statute authorized, a sum sufficient to pay off said bonds and the
9 accruing interest, when so directed by ordinance calling for such
10 bond issue; and in addition to the levying power of council herein
11 set out, such additional levies as are authorized by section five of
12 chapter nine of the acts of the extra session of the legislature of
13 one thousand nine hundred and eight, may be made whenever
14 council may deem it advisable, and they meet the requirements of
15 said section.

Sec. 51. When the council shall deem it expedient to issue such
2 bonds, an ordinance, specifying the purpose and amount for which

3 such bonds are to be issued, shall be adopted by them in regular
4 meeting, and it shall then be the duty of the mayor, to issue a pro-
5 clamation reciting said ordinance, and appointing a day on which
6 an election shall be held by the qualified voters of said city to
7 decide whether they will ratify or reject said ordinance. Such
8 proclamation shall be published in all the newspapers published
9 in said city, at least once a week for two weeks previous to the day
10 of the election. Such election shall be conducted in all things
11 according to the laws then in force governing elections, and the
12 provisions of the charter of said city. All persons qualified to
13 vote at other municipal elections in said city, and no others, shall
14 vote at such election as are herein authorized.

Pavements—Sewers.

Sec. 52. Upon the petition in writing of the persons owning the
2 three-quarters part of the lots fronting or abutting on both sides
3 of any street, or between a cross street and an alley, the council,
4 by an affirmative vote of four of its members taken on a roll call,
5 shall be authorized to order such part of any street or alley to be
6 paved, between the sidewalks, with cobble stones, brick or other
7 suitable material, and a sewer to be constructed therein, from one
8 of such cross streets or alleys to the other, or to have the paving
9 done without the construction of a sewer, or a sewer constructed
10 without such paving, under such regulations as it shall direct by
11 ordinance, on the lowest and best terms to be obtained for bids or
12 proposals therefor. In the proceedings for the permanent im-
13 provement of the streets and alleys and in the construction of
14 sewers in the said city, the council shall be governed by and com-
15 ply with all of the provisions of sections forty-nine-c I, forty-
16 nine-c II, forty-nine-c III, forty-nine-c IV, forty-nine-c V,
17 forty-nine-c VI, forty-nine-c VII, forty-nine-c VIII and forty-
18 nine-c IX, of Barnes' code of West Virginia, of one thousand
19 nine hundred and eighteen.

Sec. 53. All persons qualified to vote at general, state and
2 county elections and who have resided within the city of New
3 Cumberland for sixty days next preceding any election held
4 therein, and no others, shall be qualified to vote at elections
5 held for municipal purposes within such city.

Sec. 54. The City of New Cumberland shall succeed to all the
2 rights, powers and responsibilities, and be vested with the title of

3 all property of the city of New Cumberland as heretofore and at
4 present existing; and all officers of said town acting at the time
5 this enactment shall take effect shall continue in office and shall
6 relinquish the same as directed in sections four, five and six of this
7 act, and shall receive for such service the compensation allowed
8 therefor by the said city of New Cumberland. All ordinances,
9 by-laws, resolutions and rules of council in force in said city at
10 the time this act takes effect, unless in conflict herewith shall con-
11 tinue to have full force, operation and effect until amended, re-
12 pealed or superseded by the council under authority herein
13 given, or by general statute.

Sec. 55. But this act shall not become effective unless the same
2 shall first be submitted to the qualified voters residing within the
3 proposed city of New Cumberland, as shown by the boundaries
4 thereof set out in section two of this act, and having received a
5 majority of all votes cast at the special election hereinafter pro-
6 vided for.

7 This act shall be submitted to said voters at a special election
8 to be held within the proposed city of New Cumberland on the
9 fourth Tuesday of the month next succeeding the calendar month
10 in which this act is enacted by the legislature of West Virginia.
11 At which said special election the polls shall be opened at one
12 o'clock P. M. and shall close at seven o'clock P. M.

13 In addition to the publicity given to this act by the legislature,
14 it shall be given such further publicity as the council of the city
15 of New Cumberland may deem necessary and proper prior to the
16 holding of the said special election, and if ratified at such special
17 election this act shall go into force as provided in section five
18 of this act.

19 The ballots to be used at said special election shall be in the
20 following order:

21 PROPOSED CHARTER OF THE CITY OF NEW CUMBERLAND.

22 (). For ratification.

23 (). Against ratification.

Sec. 56. It shall be the duty of the mayor, the council and
2 the recorder now in office to perform the the duties in relation to
3 such election as required by general law of county courts and
4 officers on January first, one thousand nine hundred and twenty-
5 one; and the provisions of chapter three of the code of West
6 Virginia shall govern such election.

Sec. 57. Chapter forty-eight of the acts of the legislature of
2 West Virginia, of one thousand eight hundred and ninety-one is
3 hereby repealed.

House Bill No. 14

(House Bill No. 14—Mr. Hall, of Wetzel.)

AN ACT to amend and re-enact chapter one hundred and forty-eight
of the acts of the legislature of West Virginia of the year one
thousand nine hundred and one, incorporating the town of New
Martinsville, in the county of Wetzel, and repealing all acts
and parts of acts inconsistent or in conflict herewith.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred and forty-eight of the acts of one thou-
sand nine hundred and one be amended and re-enacted so as to
read as follows:

Section 1. The inhabitants of so much of the county of Wetzel
2 as is within the bounds described by section two of this act, and
3 their successors, shall be and remain, and they are hereby made
4 a body politic, incorporated by the name of the town of New
5 Martinsville, and as such shall have perpetual succession and a
6 common seal, and by that name may sue and be sued, plead and
7 be impleaded, purchase, lease and hold real estate and personal
8 property necessary for the use and purpose of said corporation.

Sec. 2. The corporate limits of said town shall hereafter be as
2 follows: Beginning at the intersection of Big Fishing creek
3 with the Ohio river at low water mark; thence up said Ohio river
4 with the meanders thereof at low water mark, five thousand eight
5 hundred feet to a stake at low water mark of said river, thence
6 leaving said river south eighty-two and one half degrees east
7 three thousand one hundred feet to a stake; thence south eight
8 degrees west four thousand three hundred feet to a stake; thence
9 south fifty degrees west one thousand nine hundred and forty feet
10 to a stake; thence south forty-three degrees west nine hundred and
11 fifty feet to said Big Fishing creek; thence down the same with
12 the meanders thereof and at low water mark two thousand feet
13 to the point of beginning at the mouth of said Big Fishing
14 creek; and the corporate authorities of the said town shall have,

15 for police purposes, jurisdiction over the waters of the Ohio river
16 and said Big Fishing creek.

Sec. 3. The territory of said town shall, if the same has not
2 heretofore been done, be divided into three wards, as soon as con-
3 venient after the passage of this act, by the council in being of said
4 town, which said wards shall be as nearly equal in population as is
5 possible and shall consist of compact territory; which said wards
6 so laid off shall remain until otherwise changed by the council of
7 said town, and a record and map of the said wards shall be entered
8 upon the journal of the council of said town and preserved. No
9 change shall be made in the limits of the said wards within six
10 months previous to any regular election to be held for the election
11 of town officers.

Sec. 4. The municipal authorities of said town shall consist of
2 a mayor and six councilmen, who, together shall form a common
3 council; and they shall receive such compensation as the council
4 from time to time determine, which shall not be increased or di-
5 minished during their term of office; also a recorder, who shall, in
6 addition to his duties in keeping a record of the transactions of the
7 council, shall act as tax collector, assessor and clerk of the water
8 board of said town.

Sec. 5. All the corporate powers of said corporation shall be
2 exercised by said council or under its authority except when other-
3 wise provided.

Sec. 6. There shall be elected by the qualified voters of said
2 town, as hereinafter provided, a mayor, six councilmen and
3 recorder, who at the time of their election shall be free holders
4 in said town and be entitled to vote for the members of the com-
5 mon council of said town as residents and legal voters therein. All
6 officers of said town, except the mayor, councilmen and recorder
7 shall be appointed by the council and mayor, as hereinafter pro-
8 vided.

Sec. 7. All persons appointed to office by the council of said
2 town, shall, at the time of their appointment, except as herein
3 otherwise provided, be entitled to vote for the members of the com-
4 mon council, and a removal from the town shall vacate their said
5 office.

Sec. 8. The mayor, councilmen and recorder shall each be
2 elected for the period of two years, and until their successors
3 are elected and qualified.

Sec. 9. The mayor, councilmen, recorder, chief of police, tax collector, assessor and street commissioner who, prior to the time this act becomes effective, shall have been elected to office by the qualified voters of said town, shall hold their respective offices and perform their respective duties until the terms for which they were respectively elected shall have expired. On the second Tuesday in January, one thousand nine hundred and twenty-two, and on the second Tuesday in January of each and every year thereafter, there shall be elected by the qualified voters of said town one councilman for each ward in said town, as the same shall have been or may hereafter be laid out and designated as hereinbefore provided; it being the meaning and intent of this section that one-half of said council, or one member from each ward, shall be elected annually. On the second Tuesday in January, one thousand nine hundred and twenty-three, and on the second Tuesday in January of every second year thereafter, there shall be elected by the qualified voters of said town a mayor, and recorder.

Sec. 10. Each ward shall constitute an election precinct, and the council shall establish a voting place in each, and the election of councilmen shall be by wards. No voter shall be entitled to vote at any town election except in the ward in which he resides, and if any voter shall vote for any person for council who is not a resident of the ward in which he voted, such vote or votes shall not be counted for such person or persons.

Sec. 11. Every person residing in said town shall be entitled to vote for all officers to be elected under this act, but no person who is a minor or of unsound mind or a pauper or who receives aid from the treasury of said town or who is under conviction of treason, felony or bribery in an election, or who has not been a resident of this state for one year and of the said town of New Martinsville for sixty days, and is not a *bona fide* resident of the ward in which he offers to vote, shall be entitled to vote at any election.

Sec. 12. In all municipal elections the mode of voting shall be by ballot, but the voters shall be left free to vote by open or secret ballot, as they may elect. Said municipal elections shall be held and conducted and the results thereof certified, returned and finally determined under such rules and regulations as may be prescribed by the council, which rules and regulations shall not be inconsistent with the laws of this state governing general

8 elections, and shall conform as nearly as practicable to such
9 laws. The penalties prescribed in said state laws for offenses
10 relating to such general elections shall be enforced against the
11 offenders at such municipal elections, and said laws, as to such
12 offenders, shall have the same force and effect as if they were
13 especially applicable to municipal elections.

Sec. 13. When two or more persons shall receive an equal
2 number of votes for any elective office, such tie shall be decided by
3 the council in being.

Sec. 14. All contested elections shall be heard and deter-
2 mined by the common council, and such contests shall be made
3 and conducted in the same manner as is provided for by the
4 laws of this state in cases of contests for county and district
5 offices; and the common council shall conduct its proceedings in
6 such cases as nearly as practicable in conformity with the pro-
7 ceedings of the county court in such cases. The council shall
8 be the judge of the election and qualifications of its own members.

Sec. 15. Whenever a vacancy shall occur, from any cause, in
2 the office of mayor, councilman, or recorder, the council shall
3 immediately fill such vacancy, by the vote of a majority of coun-
4 cil, until the next election if such next election occurs before the
5 expiration of the term for which such mayor or councilman was
6 elected; otherwise, such vacancy shall be so filled for the un-
7 expired term. In case of appointment to fill a vacancy until
8 the next election the voters of said town shall, at such next elec-
9 tion, elect a mayor, councilman, or recorder, as the case may
10 be, for the unexpired term.

Sec. 16. It shall be the duty of the council of said town to
2 create and to fill by appointment when not elective, such offices
3 and employments as may be necessary for the accomplishment
4 of the purposes mentioned in sub-paragraphs (a), (b), (c) and
5 (d) following, that is to say:

6 (a) For the collection of all taxes levied and assessed by said
7 council, and for the collection of all other assessments, licenses,
8 claims and moneys due the said town; and the said recorder as
9 such tax collector may distrain and sell property for the en-
10 forcement of the payment of such taxes and assessments, and
11 he shall have in all other respects the same powers and remedies
12 as a sheriff of the county to enforce the payment and collection
12-a thereof;

13 (b) For the keeping and preservation of a record of the pro-
14 ceedings of said council and of the accounts and records of said
15 town;

16 (c) For the safe keeping of the moneys and other property
17 of said town, and for the paying out of said moneys as the same
18 may be appropriated by the council; and the said council shall
19 require and take from all those whose duty it is to receive the
20 funds, assets or property of said town, or have charge of the
21 same, such bonds, obligations and other writings as the council
22 shall deem necessary or proper to insure the faithful performance
23 of said duties;

24 (d) For the preservation of peace and order within the
25 corporate limits of said town, and the enforcement of the police
26 power and authority which is or shall be vested in said town or
27 in the council or mayor thereof. The chief police officer of the
28 town shall have all the powers, rights and privileges within the
29 corporate limits of said town, and within one mile outside the
30 corporate limits thereof, in regard to the arrest of persons and
31 the execution and return of process, that can be legally exercised
32-33 within the same by a constable of the district, and he and his
34 sureties shall be liable to all fines, penalties and forfeitures that
35 a constable of a district is legally liable to for any failure or
36 dereliction in his said office, to be recovered in the same manner
37 and in the same courts in which the same fines, penalties and
38 forfeitures are now recoverable against such district constable.

39 And the said council shall have power, from time to time, ac-
40 cording to its judgment of the needs of the town, to create, fill
41 and discontinue such offices and employments (other than the
42 offices and employments which it is hereinbefore in sub-para-
43 graphs (a), (b), (c) and (d) of this section required to create)
44 as shall or may, in its opinion, be necessary and proper to carry
45 into full force any authority, power or jurisdiction which is or
46 shall be vested in the said town or in the council or mayor thereof.

47 The said council shall, by ordinance, define the duties of all
48 officers and employees appointed by it pursuant to this section
49 and of the recorder and grant to such officers such power (in
50 addition to any powers that may be specifically granted in this
51 act) as may be necessary or proper for the purpose of their ap-
52 pointment. It shall allow all officers appointed by it a reason-
53 able compensation, which (except as to persons employed for

54 special work for short periods of time) shall be by monthly
55 salaries, and not otherwise. All officers appointed by the council
56 shall hold their respective offices or appointments during the will
57 and pleasure of the said council, but no appointee shall hold
58 office for more than two years without a new appointment by
59 the council. Special police officers may be appointed by the
60 council whenever the necessities for the public safety of the peo-
61 ple of said town, in the council's judgment, may require such
62 appointments, and such special police officers shall be under the
63 direction and supervision of the mayor and council.

64 The council shall designate, by appropriate names, the offices
65 created by it, and the official titles of the officers who fill them;
66 and may, in prescribing the duties incident to any office created
67 by it and of the officer who fills the same, include the performance
68 of duties necessary for the accomplishment of any one or more
69 of the purposes mentioned in sub-paragraphs (a), (b), (c) and
70 (d) of this section, and of any other purpose for which it may
71 create offices.

Sec. 17. All officers elected and appointed under this chapter
2 shall, each, before entering upon the duties of their respective
3 offices, and within one week from the date of their election or
4 appointment, give the bond required for any officer, and take
5 the oath prescribed by law for all officers of this state, and shall
6 make oath that they will truly, faithfully and impartially, to
7 the best of their ability, discharge the duties of their respective
8 offices so long as they continue therein. Said oath may be taken
9 before any person authorized to administer oaths or before the
10 mayor of said town.

Sec. 18. The mayor, councilmen, and recorder shall enter upon
2 the duties of their said offices one week after they shall have been
3 elected, and shall continue therein until their successors are elect-
4 ed, appointed, and qualified.

Sec. 19. If any person elected or appointed shall be found
2 to be ineligible to such office, or shall fail to qualify, within the
3 time mentioned in section eighteen of this act, the said council
4 shall declare the office vacant and it shall be filled in the manner
5 prescribed in this chapter.

Sec. 20. The mayor shall be the chief executive officer of the
2 said town, and shall take care that the ordinances, by-laws and
3 resolutions of the council thereof are faithfully executed; he shall

4 be *ex-officio* a justice and conservator of the peace within the
5 town, and shall, within the same have, possess and exercise all
6 the powers and perform all the duties vested by law in a justice
7 of the peace, except that he shall have no jurisdiction in civil
8 cases or causes of action arising out of the corporate limits of
9 the said town. Any warrant or other process issued by him.
10 may be executed at any place in the county. He shall have
11 control of the police in the town, and may suspend any police-
12 man for cause, and may appoint special police officers whenever
13 he deems it necessary. It shall be his duty to especially see
14 that the peace and good order of the town are preserved, and
15 that the persons and property therein are protected; and to this
16 end he may, before issuing his warrant therefor, cause the ar-
17 rest and detention of all riotous and disorderly persons in the
18 town. He shall have the power to issue executions for all fines,
19 penalties and costs imposed by him, or he may require the im-
20 mediate payment thereof, and in default of such payment there-
21 of, he may commit the offending party to the jail of Wetzel
22 county, or to other place of imprisonment in said corporation,
23 until the fine or penalty and costs shall be paid; but the term
24 of imprisonment, in such cases, shall not exceed sixty days. In
25 all cases where a person is sentenced to prison or to the payment
26 of a fine of ten dollars or more (and in no case shall a judg-
27 ment for a fine of less than ten dollars be ordered by the mayor
28 if the defendant or his agent, or attorney, object thereto), such
29 person shall be allowed an appeal from such decision to the cir-
30 cuit court of Wetzel county, upon the execution of an appeal
31 bond, with surety deemed sufficient by the mayor, in a penalty
32 of at least double the amount of the fine and costs imposed by
33 the mayor, and with condition that the person purporting to
34 appeal will perform and satisfy any judgment which may be
35 rendered against him by said circuit court on such appeal. If
36 such appeal be taken the warrant of arrest, if any, and the other
37 papers of the case, together with a transcript of his docket re-
38 lating to such case, shall be forthwith delivered by the mayor
39 to the clerk of said court, and the court shall proceed to try
40 the case as upon indictment or presentment, and render such
41 judgment, including that of costs, as the law and the evidence
42 may require; but no judgment shall be rendered against said
43 town for costs on such appeal. The mayor may, from time to

44 time, recommend to the council such measures as he may deem
45 needful for the welfare of the town. The expense of maintain-
46 ing any person committed to the jail of the county by him,
47 except it be to answer an indictment, shall be paid by the town.
48 Said mayor shall, within one week after he receives the same,
49 pay over to the officer appointed by the council as the custodian
50 of the funds of said town all monies, belonging to said town,
51 which may have come into his hands by virtue of his office. A
52 book, well bound and indexed, to be denominated the "Mayor's
53 Docket", shall be kept in the office of the mayor, in which shall
54 be noted each case brought or tried by him, together with the
55 proceedings therein, including a statement or record of the com-
56 plaint, the summons, the return, the fact of appearance or non-
57 appearance, the defense, the hearing, the judgment, the costs, and,
58 in case the judgment be one of conviction, the action taken to
59 enforce the same. The record of each case shall be signed by
60 the mayor, or other person acting in his stead; and the original
61 papers thereof, if no appeal be taken, shall be kept together and
62 preserved in his office.

Sec. 21. The council shall appoint one of its members to
2 perform, in the absence or in case of the sickness or inability of
3 the mayor, or during any vacancy in the office of mayor, the du-
4 ties of said mayor which pertain to him as the chief executive of
5 said town; and the councilman so appointed shall, during such
6 absence, sickness, inability or vacancy, be vested with all the
7 powers necessary for the performance of such duties.

Sec. 22. The presence of a majority of the council shall be
2 necessary to make a quorum for the transaction of business.

Sec. 23. The council shall cause to be kept in a well bound
2 book, to be called the minute book, an accurate record of all
3 its proceedings, ordinances, acts, orders and resolutions, and in
4 another book, to be called the book of ordinances, accurate
5 copies of all general ordinances adopted by the council, both of
6 which books shall be fully indexed. All oaths and bonds of
7 officers, and all papers pertaining to the proceedings of the coun-
8 cil, shall be endorsed, filed and securely kept by the recorder of
9 the town.

10 The bonds of officers shall be recorded in a well bound book,
11 to be called the record of bonds. Said council may cause to
12 be printed and bound, in pamphlet form, all the general ordin-

13 ances of the said town; and transcripts of such ordinances, and
14 of the acts, orders and resolutions of said council, certified by
15 the recorder, under the seal of the town, shall be deemed *prima*
16 *facie* correct when sought to be used before any court or before
17 any justice.

Sec. 24. At each meeting of the council the proceedings of
2 the last meeting shall be read, and corrected if erroneous, signed
3 by the presiding officer for the time being, and countersigned
4 by the recording officer. Upon the call of any member, the
5 "ayes" and "noes" upon any question shall be taken and re-
6 corded in the minute book, and the roll for that purpose shall be
7 called alphabetically.

Sec. 25. The mayor shall preside at the meetings of the
2 council, but shall have a vote only in case of a tie. In case of
3 his absence from any meeting, the council shall select one of its
4 members to preside.

Sec. 26. The regular meetings of the council shall be on the
2 first Monday night in each month and at such other times as may
3 deemed necessary for the transaction of the business of said
4 town, and shall be held at such place in said town as the council
5 shall from time to time ordain and appoint. Said council shall
6 meet in special session upon the call of said mayor or upon the
7 call of any two of the councilmen. The council shall by ordin-
8 ance prescribe the mode in which notice of special meetings shall
9 be given; and no business shall be transacted at any meeting or
10 at any adjournments thereof unless a majority of all the members
11 of the council shall be present, except that a less number may com-
12 pel the attendance of absent members at such meetings or ad-
13 journment thereof under such reasonable penalties as they may
14 think proper to impose; and all questions put, except in such
15 matters as are hereinafter provided for, shall be decided by a
16 majority of the members present.

Sec. 27. The moneys belonging to the town shall be paid over
2 to the officer appointed by the council as the custodian of the
3 funds of said town, and no money shall be paid out by him ex-
4 cept as the same shall have been appropriated by the council,
5 and upon an order signed by the mayor and recorder.

Sec. 28. The council of said town shall have power to lay
2 off, vacate, close, open, alter, grade and keep in good repair roads,
3 streets, alleys, pavements, side walks, drains and gutters therein,

4 for the use of the citizens of said town and of the public and to
5 improve and light the same and to keep them free from ob-
6 structions of every kind; to regulate the width of the pavements
7 and sidewalks, the streets and alleys, and to cause the pavements,
8 sidewalks, footways, drains and gutters to be kept in good order,
9 free and clean, by the owners or occupants of the real property
10 next adjacent thereto; to establish and regulate markets, pre-
11 scribe the time of holding the same, provide suitable and con-
12 venient buildings therefor, and prevent the forestalling of such
13 markets; to prevent injury or annoyance to the public or to in-
14 dividuals from anything dangerous, offensive or unwholesome;
15 to prohibit or regulate slaughter houses, tan houses and factories
16 within the said town, and within one mile of the corporate
17 limits thereof; and to prohibit the exercise, in the said town,
18 of any offensive business, trade or employment; to abate all
19 nuisances within the corporate limits, and to require or compel
20 the abatement or removal thereof, at the expense of the person
21 causing the same, or by or at the expense of the owner of the
22 ground at the place they are found; to cause to be filled up,
23 raised or drained, by or at the expense of the owner, any city lot
24 or tract of land covered or subject to be covered by stagnant
25 water; to prevent horses, hogs, cattle, sheep and other animals
26 and fowls of all kinds from going or being at large in such
27 town, and as a means of prevention said council may provide
28 for impounding and confining said animals and fowls, and, upon
29 the failure to reclaim, for the sale thereof; to protect places of
30 divine worship and preserve order in and about the premises
31 where and when such worship is held; to protect places of public
32 instruction, schools and high schools, and to preserve order in
33 and about all school buildings therein; to regulate the keep-
34 ing of gun powder and other dangerous explosives and sub-
35 stances; to regulate the building of houses and other structures
36 and the maintaining and making of division fences by the
37 owners of adjacent premises; to require the proper drainage of
38 town lots and other parcels of land to be made by or at the
39 expense of the owner or occupant thereof, when such drainage
40 shall be deemed necessary for the protection of the public health;
41 to provide against danger or damage by fire; to punish assaults
42 and batteries; to prohibit the keeping of or loitering in or
43 visiting houses of ill-fame or congregating or loitering upon

44 the streets or alleys of said town; to prevent lewd or lascivious
45 conduct; the sale or exhibition of indecent pictures or other rep-
46 resentations, and the desecration of the Sabbath day; to pre-
47 vent swearing; to protect the persons of those residing or being
48 within said town; to appoint, when necessary, or advisable, a
49 police force, permanent or temporary; to build or purchase, lease
50 or maintain and use, a suitable place of imprisonment within
51 said town for the safe keeping or punishment of persons charged
52 with or convicted of the violation of ordinances; to erect or
53 authorize or prohibit the erection of gas or water works within
54 the corporate limits; to prevent injury of such works, of the
55 pollution of any gas or water used or intended to be used by the
56 public or by individuals; to provide for the inspection of bread,
57 milk, meat and all other articles intended for food, including
58 animals from which food is obtained, and all substances enter-
59 ing into the manufacture of goods intended for use in said town;
60 and for this purpose to appoint a competent inspector of foods,
61 who may be a non-resident of said town, to fix a minimum per-
62 centage of butter fat content of milk and cream offered for sale
63 in said town, and to require and issue licenses and permits to
64 offer said foods for sale and to revoke the same for failure to
65 comply with the ordinances, rules and regulations relating thereto;
66 and to regulate or prevent the sale, or cause the destruction of
67 any such food or milk as may be unwholesome, adulterated, or
68 dangerous, or lacking in butter fat content, and to provide for
69 the punishment of persons selling or offering the same for sale;
70 the word "food" in this clause meaning anything intended to be
71 eaten or drunk by the citizens of said town; to provide for and
72 regulate the measuring and weighing of hay, coal, lumber or other
73 articles sold or kept or offered for sale within said town, and to
74 establish rates and charges for said weighing or measuring, to
75 regulate the running and speed of automobiles, engines and cars
76 within said town; to create, by ordinance, such committees and
77 boards, and delegate such authority thereto, not inconsistent with
78 the law, as may be deemed necessary or advisable; to provide for
79 the assessment and collection of a license tax on dogs, kept in
80 said town, and to regulate their running at large; to provide
81 a revenue for the town for municipal purposes and to appropri-
82 ate such revenue to its expenses, and to take such measures as
83 may be deemed necessary or advisable to protect the property,

84 public and private, within said town; to preserve and maintain
85 peace, quiet and good order therein; and to preserve and pro-
86 mote the health, safety and well being of the inhabitants thereof.
87 The said council shall have authority to pass all ordinances
88 which shall be necessary or proper to carry into full force and
89 effect the authority and jurisdiction which is or shall be granted
90 or vested in said town, or in the council thereof, or in any officer,
91 or body of officers of said town, and to enforce any and all ordi-
92 nances by reasonable fines and penalties, and by imprisonment;
93 and, upon failure to pay any such fine or penalty imposed, to
94 compel the defaulting party to labor on any public works or
95 improvements undertaken or to be undertaken by said town, or
96 to labor at any work upon which the said town may lawfully
97 employ labor, at such a rate per diem as the council may fix,
98 but not at a less rate than is fixed by said council for like labor
99 from other employees of the town, until all fines imposed upon
100 the party so in default have been paid and discharged, after de-
101 ducting charges of support while in the custody of the officers
102 of said town; and said council shall have power to pass ordi-
103 nances prohibiting and fixing penalties for selling, offering, ex-
104 posing for sale and soliciting and receiving orders for spirituous
105 and intoxicating liquors, mixtures and preparations, wine, porter,
106 ale, beer and drinks of like nature, and the right and power to
107 enforce the same shall extend one mile in the state of West
108 Virginia beyond the corporate limits of said town; *provided*,
109 *however*, that no fines shall be imposed exceeding one hundred
110 dollars; and no person shall be imprisoned, or compelled to
111 labor as aforesaid, for more than sixty days for any offense; and
112 in all cases where a fine of ten dollars or more is imposed, or a
113 person be imprisoned, or compelled to labor as aforesaid for a
114 term greater than ten days, an appeal may be taken from such
115 decision upon the same terms and regulations that appeals are
116 taken from the judgment of a justice of this state. Such fines
117 and penalties shall be imposed and recovered and such punish-
118 ment inflicted and enforced by and under the judgment of the
119 mayor of said town, or, in case of his absence, sickness or inability
120 to act or in case of a vacancy in the office of mayor, by the mem-
121 ber of the council appointed pursuant to the provisions of sec-
122 tion twenty-one of this act, or, in case of his absence or inability
123 to act, by any member of the council, and the member of the

124 council first taking jurisdiction of the cash shall have full juris-
125 diction thereof, to the exclusion of all others. In addition to
126 the powers already enumerated, the said council shall have power
127 to amplify, improve, extend and expand the water works of said
128 town; to contract by public contract for an adequate supply
129 of pure, healthful water for said town; to do all things neces-
130 sary to secure an adequate supply of pure, wholesome water;
131 to effect and maintain a proper and efficient conduct of the
132 business of the said water works and the collection of the
133 revenues arising therefrom; to provide, contract by public con-
134 tract for, and construct and maintain an adequate sewerage
135 system for said town, and to provide, contract by public con-
136 tract for, construct, purchase and maintain an adequate system
137 of electrical generation and distribution for said town and the
138 inhabitants thereof, and to effect and maintain a proper and
139 efficient conduct of the business of such electrical system and
140 the collection of the revenues arising therefrom. Upon any
141 occupation carried on or which may be carried on in said town,
142 and for which a state license is required, the council may fix
143 and provide for the collection of a municipal license tax, not
144 exceeding the state license tax, which municipal license tax shall
145 be, by the officer whose duty it is to collect the other taxes for
146 said town as hereinafter provided, collected by distraint or other-
147 wise.

148 Said council shall also have power to levy, assess and collect
149 taxes upon the real and personal property within said town, but
150 such taxes shall be uniform with respect to persons and property
151 within the jurisdiction of said town. The council shall meet on the
152 second Tuesday in August of each year and cause to be made up,
153 and spread on its minute book an accurate estimate, in the man-
154 ner provided by law, of all sums which are, or may become law-
155 fully chargeable against the town during the current fiscal year,
156 and which ought to be paid during said year; and it shall order,
157 at a meeting which shall be held by it on the fourth Tuesday in
158 August of each year, as provided by law, a levy of so much as
159 will in its judgment, after deducting the money in the treasury
160 applicable thereto, and municipal claims, be necessary to pay
161 the same; which levy shall be upon all real and personal prop-
162 erty within the said town otherwise subject to state and county
163 taxes; *provided*, that such levy shall not exceed the amount pre-

164 scribed by the state law on every one hundred dollars of the as-
165 sessed value of such property. Such levy shall also include a poll
166 tax of not more than one dollar upon each resident of said corpora-
167 tion over twenty-one years of age, and a street tax of not to
168 exceed two dollars and fifty cents upon each and every male in-
169 habitant of said town over twenty-one and under fifty years of age.
170 Said poll tax and street tax shall be, by the officer whose duty it
171 is to make out the land and personal property books, extended in
172 the personal property books against the persons liable to the
173 payment of said taxes, at the same time the other taxes are by him
174 extended in pursuance of the provisions of this act. Any inhab-
175 itant of said town liable to the payment of said street tax, may,
176 instead of paying the same in money, pay the said street tax in
177 work on the public streets or alleys of the town, under the super-
178 vision of the officer whose duty it may be to superintend or look
179 after the work done on said streets and alleys, at the rate of one
180 dollar and twenty-five cents per day; and in such case the said
181 officer shall deliver to the person so working on the streets and
182 alleys a certificate showing the time such person so worked, and
183 the amount for which he is entitled to credit on his street tax
184 by reason thereof, and the officer whose duty it is to collect the
185 taxes for said town shall, upon presentation to him of such cer-
186 tificate, credit such person, on his street tax, for said amount.

187 Said council shall also have power to contract by public con-
188 tract, for the paving of its streets and alleys; to establish and
189 regulate the grade thereof, and to provide for the maintenance
190 and repair of the same; to provide for the maintenance, con-
191 tinuance and enjoyment of the water works of said town; to
192 provide for the maintenance, establishment and enjoyment of
193 fire companies, for the purpose of protecting the property of the
194 citizens of said town from destruction or damage by fire. But
195 said town shall not hereafter be allowed to become indebted in
196 any manner for any purpose to an amount, including the exist-
197 ing indebtedness, in the aggregate, exceeding the limit prescribed
198 by the laws of this state relating to the contracting of indebted-
199 ness by municipal corporations, nor shall said town contract any
200 debt without at the same time providing for that collection of a
201 direct annual tax sufficient to pay annually the interest on such
202 debt and the principal thereof within and not exceeding thirty-
203 four years; *provided*, that no such debt shall be contracted under

204 this charter unless all questions connected with the same shall
205 have been first submitted to a vote of the people, in the manner
206 provided by the laws of this state, and have received three-fifths
207 of all votes cast for and against the same. Said council shall not
208 grant any franchise to any person, or corporation, within said
209 town limits, which shall be either exclusive or perpetual, but all
210 such grants shall have annexed to them the power to rescind,
211 revoke, alter, modify or regulate the exercise thereof; and the
212 said council shall have power, upon ten days' notice, and for cause,
213 to revoke, rescind, alter or modify the exercise of any such fran-
214 chise; and no franchise involving the use of any of the public
215 property, streets, alleys, sidewalks, cross walks, or involving
216 the use or occupancy of the same shall be granted except by an
217 ordinance to that effect; and no such ordinance shall be passed
218 unless the question of the granting of such franchise shall have
219 been first submitted to a vote of the people, and a majority of all
220 the votes cast upon the question so submitted shall have been in
221 favor of the granting thereof; *provided*, such submission shall
222 have been petitioned for by at least one-tenth of the qualified
223 voters of said town, to be ascertained according to the number
224 of votes cast at the last preceding election.

Sec. 29. The officer whose duty it is to make out the land
2 books for Wetzel county shall, annually, at a reasonable compen-
3 sation therefor, to be allowed him by the council, and not later
4 than the fifth day of August, furnish to the officer whose duty it
5 it to keep and preserve a record of the proceedings of the said
6 council a statement showing, in separate amounts, the aggregate
7 value of the personal property and the aggregate value of all the real
8 estate in the town, as ascertained from the land and personal
9 property books of said county for the current year. Upon receipt
10 of said statement the officer receiving it shall present the same to
11 the council at the meeting thereof to be held on the second Tues-
12 day in August, for the purpose of making up the annual estimate
13 of said town for the current year. As soon as the rate of levy shall
14 have been fixed by council as provided by the laws of this state it
15 shall cause to be furnished to the officer whose duty it is to make
16 out the land books and personal property books for said county a
17 certified copy of the order of the council, fixing the rate of tax, and
18 such officer shall thereupon, at a reasonable compensation therefor,
19 to be allowed him by the council, extend the tax against the prop-

erty situated in the town, in said land and personal property books, in separate columns. The officer whose duty it is to collect the taxes for said town shall, when the extended copies of the assessor's books are completed and returned to the clerk of the county court, have access to the same for the purpose of making out the tax bills for the town taxes therein extended, and it shall be the duty of said collector to make out all tax bills, and when the same shall have been examined, compared and approved by a committee of its own body which the council shall appoint for such purpose, and found to be correct, which shall not be later than the tenth day of September following the levy, the said collector shall deliver to the said committee a receipt for said tax bills, and the collector shall be charged therewith. Said receipt shall be returned to the council and entered upon its record. The collector shall give notice, by publication for two successive weeks in one or more newspapers published in said town, if there be any newspapers published therein, and by printed bills posted at ten or more conspicuous places in said town, that said tax bills are in his hands for collection, stating the penalty for non-payment thereof, and the time and place where the same may be paid. To all persons who shall pay their taxes in full on or before the first day of December next succeeding said levy there shall be allowed a discount of two per centum on the whole amount of the taxes so paid, and not otherwise. The collector shall, immediately after the first day of December, proceed, by distraint or otherwise, to collect from the persons for whose taxes he may hold tax bills, the entire amount of the town taxes with which they are severally charged; and upon all taxes remaining unpaid on the first day of January next succeeding said levy, interest shall be charged at the rate of one per centum per month from said first day of January until they are fully paid.

If the said collector shall fail to account for and pay over any or all of the money with which he may be chargeable, belonging to the said town, according to the conditions of his bond and orders of the council, it shall be lawful for the council to recover the same by action or by motion, upon ten days notice, in the corporate name of the town, in the circuit court of Wetzel county, or in any other court of competent jurisdiction, against him and his sureties or any or either of them, or his or their executors or administrators.

60 All license taxes shall be payable on the first day of July of
61 each year, or at such time as such license may be issued.

Sec. 30. It shall be lawful for the council to establish and con-
2 struct landings, wharves and docks on any ground, street or alley
3 which does or shall belong to said town, and to repair, alter and
4 remove any buildings, wharf or dock, and to collect a reasonable
5 tax on vessels coming to or using the same; and it shall have
6 power to keep the same in good order and repair; to preserve peace
7 and good order at the same and regulate the manner in which they
8 shall be used. It shall also have power to appoint a wharf master
9 if the same be deemed necessary, or to confer that duty upon
10 any other officer, and to prescribe the duties of such acting wharf
11 master, fix his fees, and make all regulations in respect thereto as it
12 may deem necessary.

Sec. 31. There shall be a lien on all real estate within said
2 town for the town taxes assessed thereon, and for all fines and
3 penalties assessed to or imposed upon the owners thereof by the
4 authorities of said town, which shall have priority over all other
5 liens except the liens for taxes due the state, county and dis-
6 trict, and which may be enforced by the council in the same
7 manner provided by the law for the enforcement of liens for
8 county taxes. If any real estate within said town be returned
9 delinquent for the non-payment of taxes due thereon, a copy
10 of such delinquent list may be certified by the council to the
11 auditor of the state, and the same may be sold for said taxes,
12 interest and commission thereon, in the same manner, at the
13 same time and by the same officers as real estate is sold for
14 state taxes.

Sec. 32. License for the keeping of dogs shall expire on the
2 thirtieth day of June next from their granting.

Sec. 33. The council shall have the right to institute pro-
2 ceedings in the name of the town for the condemnation of real
3 estate for streets, alleys, drains, markets, market ground, town
4 prison, or other work or purposes of public utility. Such pro-
5 ceedings shall conform to chapter forty-two of the code of West
6 Virginia. And said council shall also have power to acquire
7 by purchase, gift or condemnation, one or more lots necessary
8 for municipal buildings on which to place such buildings as
9 they may deem necessary for the meeting of said council and for
10 the keeping of the offices and the property of said town. And

11 said council shall also have the power to organize or authorize
12 the organization of fire companies, hose companies or any other
13 companies or associations of persons for the purpose of protect-
14 ing the property of the citizens of said town against destruction
15 by fire, and to authorize such companies or associations of per-
16 sons to create and hold property necessary and ordinarily held
17 and used by such fire companies. Council shall not have power
18 to release or relieve any tax payer from the payment of taxes
19 levied on or assessed against him or them, except that it may
20 exonerate members of volunteer fire companies of said town from
21 the payment of street tax.

Sec. 34. The council shall have full power to provide for the
2 keeping of its poor and indigent persons within the limits of the
3 said town, and the citizens thereof shall be exempt from the pay-
4 ment of all county poor taxes for each and every year and said
5 town council shall independently provide for the keeping of the
6 poor of said town; but in each and every year in which the county
7 court of Wetzel county shall levy, upon the persons and prop-
8 erty within said town, a tax for the keeping or care of the poor,
9 or one of the purposes of which levy is to keep and care for the
10 poor, the said county court shall bear the entire expense of keeping
11 the poor within the limits of said town, and all money necessarily
12 expended by the council for such purpose shall be reimbursed to
13 said town by the said county court.

Sec. 35. The council shall have power to appoint and constitute
2 a board of health, consisting of at least two of its own members
3 and one reputable physician, which said board of health, under the
4 supervision of and with the approval of said council, shall have
5 full power to make all needful rules and regulations for the keep-
6 ing and maintaining of the said town in a proper and healthful
7 condition, and when such board of health shall have been elected
8 and organized, it shall, subject to such state laws as may be ap-
9 plicable to it, have exclusive control of all matters relating to the
10 public health within the limits of said town.

Sec. 36. In the month of July in each year the council shall
2 cause to be published in two newspapers of opposite politics in
3 the town, if there be such published therein, and if not, then in
4 one newspaper published therein, at a compensation not to exceed
5 the rate provided by law for like publications, for one issue, or if
6 no such newspaper be published therein, to publish in pamphlet

7 form not less than one hundred copies of, a sworn statement of the
8 financial condition of said corporation as of the thirtieth day of
9 June next prior to such publication. Such statement shall con-
10 tain an itemized account of the receipts and expenditures of the
11 town for the fiscal year ending on said thirtieth day of June,
12 showing the sources from which all the money coming into the
13 treasury of said town during the said year was derived, and the
14 names of all persons to whom orders were issued, together with
15 the amount of each order, and why such order was issued, arrang-
16 ing the same under distinct heads; and shall also contain a specific
17 list of the debts of the town, showing the purpose for which any
18 debt was contracted, the time when it becomes due, the rate of
19 interest, up to what time the interest thereon has been paid, the
20 amount of money in the treasury at the end of the preceding fiscal
21 year, and the debts contracted during said year. Such statement
22 shall be sworn to by the officer whose duty it is to keep the books
23 of account of said town, by the mayor and by the members of a
24 finance committee to be appointed by the council from its own
25 body. One copy of such statement shall be delivered to the judge
26 of the circuit court, one to the clerk of the county court, and one
27 to the clerk of the circuit court of Wetzel county, and one shall
28 be kept as a part of the records of the town. If the said council
29 fail or refuse to perform the duties herein named, every member
30 of such council, and the said officer whose duty it is to keep the
31 books of account of said town, concurring in such failure or re-
32 fusel, shall be guilty of a misdemeanor and upon conviction thereof
33 shall be fined not less than ten dollars nor more than one hundred
34 dollars.

Sec. 37. All acts or parts of acts inconsistent or in conflict with
2 this act are hereby repealed, but this act shall not be construed to
3 repeal, change or modify any previous act, not inconsistent with
4 this act authorizing the town of New Martinsville to contract
5 debts or to borrow money, or to take away any of the power con-
6 ferred by general law upon the said town, or upon the mayor or
7 council or any of the officers, except so far as the same may be
8 inconsistent with the powers hereby conferred.

Sec. 38. The council shall pass all proper orders and ordinances
2 to give this act full force and effect. Such ordinances as are
3 now in force in said town, except such as may be inconsistent with
4 this act, shall continue to have full operation and effect as ordin-

ances of the town of New Martinsville until amended, repealed or superseded by the council of said town.

Sec. 39. The books, accounts, vouchers and papers of said town shall, at all reasonable hours, be open to inspection by any citizen or tax payer of said town or by any officer of the United States, the state of West Virginia, the county of Wetzel, or said town of New Martinsville.

Sec. 40. The moneys arising from the operation of the water works of said town shall constitute what shall be known as the "City water works fund," which fund, or any part thereof, may be appropriated by the council, or by and under its order, for the amplification, improvement, extension, expansion, maintenance or operation of the said water works; and the said water works shall be kept and maintained in good condition and repair, and operated, with said fund; *provided*, that at any time said city water works fund shall exceed in amount the sum of ten thousand dollars (after deducting the amount of all unpaid bills and claims incurred or that may be then outstanding by reason of any amplifications, improvements, extensions or expansions theretofore made to said water works or by reason of the maintenance thereof); the council may, in its discretion, appropriate and use not to exceed in any one fiscal year twenty-five per centum of the excess accumulated in said year for any other purpose for which it may have authority to expend or pay money for the benefit of said town.

Sec. 41. This act shall not become and be effective until it shall have been ratified by a majority of the qualified voters of said town of New Martinsville cast at an election to be held at the court house in said town of New Martinsville for the purpose of determining whether this act shall be approved or disapproved. For this purpose an election may be called by the common council of said town of New Martinsville within three months from the date of the passage of this act, and notice of such election shall be given by publication, for two successive weeks in the Wetzel Democrat and the Wetzel Republican, newspapers published in said town of New Martinsville and, also notice of such an election shall be given by posting a copy of the proclamation calling said election at the court house, and in at least ten other public places within the corporate limits of said town of New Martinsville. The ballots used at said election shall contain a

- 16 brief statement of the question being voted upon and directly
17 underneath shall be printed the words:
18 "For ratification of act"
19 "Against ratification of act."
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House Bill No. 482

(House Bill No. 482—Mr. Wyatt.)

AN ACT to amend and re-enact section twenty-six of chapter fourteen of the acts of the legislature, one thousand nine hundred and five, at the regular session, relating to the incorporating of the town of Salem, and defining the powers of the city council thereof.

Be it enacted by the Legislature of West Virginia:

That section twenty-six of chapter fourteen of the acts of the legislature, one thousand nine hundred and five, at the regular session, be amended and re-enacted so as to read as follows:

Section 26. The council of said city shall have power to lay
2 off, vacate, close, open, alter, grade and keep in good repair the
3 roads, streets, alleys, pavements, sidewalks, crosswalks, drains and
4 gutters therein for the use of the citizens and the public, and to
5 improve and light the same, and to keep them free from ob-
6 structions of every kind; to regulate the width of the pavements,
7 sidewalks, footways, drains and gutters to be kept in good order,
8 free and clean by the owners or occupants of the real property
9 next adjacent thereto; to establish and regulate markets, pre-
10 scribe the time of holding the same, provide suitable and con-
11 venient buildings therefor, and prevent the forestalling of such
12 markets; to prevent injury or annoyance of the public or to in-
13 dividuals from anything dangerous, offensive or unwholesome;
14 to prohibit or regulate slaughter houses, tan houses and factories
15 within the corporate limits; and to prohibit the exercise of any
16 offensive business, trade or employment, to abate all nuisances
17 within the corporate limits, and to require or compel the abate-
18 ment or removal thereof at the expense of the person causing
19 same, or by or at the expense of the owner of the ground at
20 the place they are found; to be caused to be filled up, raised or
21 drained by or at the expense of the owner, any city lot or tract

92 of land covered or subjected to be covered by stagnant water;
93 to prevent horses, hogs, cattle, sheep and other animals and fowls
94 of all kinds from going or being at large in said town, and as
95 a means of prevention, said council may provide for the im-
96 pounding and confining of said animals and fowls; and upon
97 the failure to reclaim, for the sale thereof; to protect places of
98 divine worship, and preserve order in and about the premises
99 where and when such worship is held; to protect places of pub-
100 lic instruction and schools, and to preserve order in and about
101 all the school buildings; to regulate the keeping of gunpowder
102 and other dangerous explosives and substances; to regulate the
103 building of houses and other structures; for the maintaining
104 and making of division fences by the owners of adjacent prem-
105 ises; and for the proper drainage of town lots and other par-
106 cels of land by or at the expense of the owner or occupant there-
107 of, when such drainage shall be deemed necessary for the pro-
108 tection of the public health; to provide against danger or dam-
109 age by fire; to punish assault and batteries; to prohibit the
110 keeping of or loitering in or visiting houses of ill-fame, or con-
111 gregating or loitering in saloons or upon streets of said city;
112 to prevent lewd or lascivious conduct, the sale or exhibition
113 of indecent pictures or other representations; the desecration of
114 the Sabbath day; to prevent swearing, the illegal sale of in-
115 toxicating liquors, mixtures and other preparations, porter, beer,
116 ale, wine or other drinks of like nature; to protect the persons
117-120 of those residing or being within said town; to build
121 or purchase or lease and use a suitable place of im-
122 prisonment within said city for the safe keeping and
123 punishment of persons charged with or convicted of the violation
124 of ordinances; to erect, or authorize or prohibit the erection of
125 gas or water works within the corporate limits; to prevent in-
126 jury of such works, or the pollution of any gas or water used
127 or intended to be by the people or by individuals; to provide
128 for and regulate the measuring and weighing of hay,
129 coal, lumber or other articles sold or kept or offered
130 for sale within said town; to create by ordinance such
131 committee and boards, and delegate such authority thereto
132 as may be deemed necessary or advisable; to establish rates and
133 charges for weighing and measuring of hay, coal, lumber or
134 other articles; to regulate the running speed of engines and cars

65 within said town; to provide for the annual assessment of taxable
66 property therein, including dogs kept in said city, and to regu-
67 late their running at large; to provide a revenue for the city for
68 municipal purposes and to appropriate such revenue to its ex-
69 penses, and to take such measures as may be deemed necessary
70 or advisable to protect the property, public and private, within said
71 city; to preserve and maintain peace, quiet and good order therein;
72 and to preserve and promote the health, safety and well being
73 of the inhabitants thereof.

House Bill No. 481

(House Bill No. 481—Mr. Wyatt.)

AN ACT to amend and re-enact chapter two of the acts of the legis-
lature for one thousand nine hundred and fifteen, regular ses-
sion, as codified under municipal charters, relating to the charter
for the city of Shinnston.

Be it enacted by the Legislature of West Virginia:

That chapter two of the acts of the legislature of West Virginia
for the year one thousand nine hundred and fifteen, as codified under
municipal charters be amended and re-enacted so as to read as fol-
lows:

Section 1. That the inhabitants of so much of the county of
2 Harrison as is within the bounds prescribed by section two of this
3 act, and their successors, shall be and remain, and they are hereby
4 made a body politic and corporate by the name of "The City of
5 Shinnston," and as such shall have perpetual succession and a
6 common seal and by that name shall sue and be sued, plead and
7 be impleaded, purchase, lease and hold real estate and personal
8 property necessary for the purpose of said corporation.

Sec. 2. The corporate limits of said city shall hereafter be as
2 follows:

3 Beginning at an ash on the banks of the West Fork river called
4 for in the old corporation line, and running thence S. 45° E.
5 1427.3 feet to a stake, bearing N. 64° W. 99 feet from northwest
6 corner of Morris' farm; thence N. 65° E. 5610 feet to a locust in
7 T. J. Barnes' heirs field; thence S. 76° 40' E. 2540 feet to north-
8 west corner of Mudlick cemetery; thence No. 10° W. 618 feet to a

9 point in Mudlick run, immediately under the center of a concrete bridge spanning the same; thence down the said Mudlick run with its meanders, to the point of the confluence of same with the West Fork river; thence up said river with its meanders and at ordinary low water edge of the east bank of the same, to a stake 43 feet from a white oak; thence N. $11^{\circ} 22'$ W. 373 feet, crossing said river to a walnut; thence N. $80^{\circ} 39'$ W. 2658 feet to a marked stone on a point on C. A. Short's farm; thence S. $27^{\circ} 55'$ W. 2303 feet to an oil well on Lucas ridge; thence S. $15^{\circ} 21'$ W. 3731 feet to the place of beginning, containing 720.37 acres. The territory embraced within said city shall be divided into four wards, as follows, to-wit:

21 *First Ward:* All territory on the east side of said river east of a line beginning at a point at low water mark on West Fork river in direct line with the center of Station street and running thence with the center line of said Station street to southern boundary of corporate line.

26 *Second Ward:* All the territory on east side of said river between the first ward and a line beginning at a point at low water mark on said river in line of center of Walnut street and running with the center line of said Walnut street to southern boundary of corporate line.

31 *Third Ward:* All the rest and residue of the territory on the east side of said river.

33 *Fourth Ward:* All that part of said territory on the west side of said river.

35 And the council of said city may change the boundaries of said wards, or create additional lines, as may appear to said council to be proper or necessary; but no change shall be made in the boundaries of said wards, or any new wards created less than sixty days before the holding of a general election for said city.

Elective Officers.

Sec. 3. The municipal elective officers of said city shall consist of eight councilmen, two from each ward of said city, who shall be elected by the qualified voters of their respective wards; one councilman from each ward of said city shall be elected on the first Tuesday of March one thousand nine hundred and twenty-two, for a term of two years, beginning April first, one thousand nine hundred and twenty-two, and a like number on each suc-

8 ceeding first Tuesday in March for a like term of years, except,
9 in case of a vacancy in such office, council shall fill the vacancy
10 only until the next regular election, when said vacancy shall be
11 filled by election for the unexpired term.

Appointive Officers.

Sec. 4. For the administration of the affairs of the city and
2 of the powers conferred upon the city council, there are created
3 the following municipal officers:

4 City manager, city clerk or recorder, who shall be *ex-officio* po-
5 lice court judge, city attorney, city physician, chief of police, and
6 chief of the fire department.

7 The city council shall have power to create additional adminis-
8 trative offices and to abolish any of the offices in this section cre-
9 ated.

10 The city council shall at its first meeting in the month of April
11 following a municipal election, or as soon thereafter as prac-
12 ticable, appoint by a majority vote, a city manager, and shall by a
13 like vote, at any regular or special meeting of the council, fill any
14 vacancy in said office.

15 The city manager shall, by and with the advice and consent of
16 the city council, appoint a city clerk or recorder who shall be *ex-*
17 *officio* police court judge, a city attorney, a city physician, a chief
18 of police and a chief of the fire department, and officers to fill any
19 other administrative offices which the council shall create. Any
20 vacancy in any of said offices shall be filled by the city manager
21 with the consent of the council. The assent of the council in all
22 cases shall be entered of record in the book containing the pro-
23 ceedings of the council.

24 The city manager shall hold office during the pleasure of the
25 council, and may at any time be removed from office by the affir-
26 mative vote of two-thirds of all of the members of the council.

27 The administrative officers named in this section and any ad-
28 ministrative officers appointed to fill any administrative offices
29 which council may hereafter create shall hold office at the will and
30 pleasure of the city manager and may be removed from office at
31 any time by the city manager; *provided, however*, that any such
32 officer who shall be removed from office by the city manager may
33 be reinstated by the affirmative vote of two-thirds of all the mem-
34 bers of the city council.

35 The council shall by ordinance or resolution prescribed, fix and
36 limit the number of city policemen to be employed by the city.
37 and the number of employees in the fire department.

Qualifications.

Sec. 5. No person shall be elected or remain a member of the
2 city council who does not reside in the ward from which he is
3 elected, or who shall not have been assessed with personal or real
4 property to the value of not less than five hundred dollars, the
5 previous year and shall have actually paid the taxes thereon. Any
6 officer of the city who shall become or be directly or indirectly in-
7 terested in any contract or in the profits to be derived therefrom
8 with the municipality shall forthwith forfeit his office; and in ad-
9 dition thereto, any such contract shall be void and unenforceable
10 against the city; and the acceptance by any officer of any interest
11 in such contract or of any gift or gratuity from any person, firm
12 or corporation dealing with the city shall disqualify the person
13 forever from holding any office or employment in the government
14 of the city of Shinnston; and in addition, such person shall be sub-
15 ject to criminal prosecution under the ordinances of the city or
16 law of the state of West Virginia.

Compensation.

Sec. 6. Each member of the city council shall receive a fee
2 of five dollars for each regular or special meeting which he shall
3 attend: *provided, however*, that he shall not receive a total com-
4 pensation of more than seventy-five dollars for any year.

5 The city manager and other administrative officers holding the
6 offices created by section eleven of this act, or which shall here-
7 after be created by the city council, the members of the city police,
8 the employees of the fire department, and laborers employed by the
9 city, shall receive such salary, compensation and wages as the
10 city council shall from time to time by ordinances or resolution
11 fix and prescribe.

City Manager.

Sec. 7. The city manager shall occupy an office for the trans-
2 action of the public business in the building or buildings oc-
3 cupied by the city government, which office shall be kept open
4 on all secular days except legal holidays for the transaction of

5 the public business. He shall devote all of his time to the dis-
6 charge of his official duties, and while holding the
7 office shall not engage in any other business or employ-
8 ment or hold any other office. In addition to all other
9 powers which may be conferred upon the city manager by
10 the city council or by the laws of the state of West Virginia, he
11 shall exercise the following powers:

12 Supervise, control and direct the affairs and business of all of
13 of the administrative offices created in this act,, or which shall
14 hereafter be created by the council under the authority therein
15 contained, except the police department.

16 Appoint and remove in the manner herein provided all ad-
17 ministrative officers and employ and discharge at will all other
18 employees of the city.

19 Enforce in favor of the inhabitants of the city all terms and
20 conditions in their favor contained in any public utility fran-
21 chise and require the faithful discharge of obligations of all pub-
22 lic utilities.

23 Attend and preside at all meetings of the council with the
24 right to take part in the discussion of all measures, but with the
25 right to vote only in the case of a tie.

26 Recommend to the council for adoption such measures and
27 resolutions as he may deem expedient.

28 Act as budget commissioner and keep the city council fully
29 advised as to the financial condition and needs of the city.

30 Determine and decide on the plan and program for paving,
31 sewerage and otherwise improving the different streets and alleys
32 in the city and fix and determine the order of time in which such
33 streets and alleys shall be paved, sewerage and otherwise im-
34 proved.

35 Determine and decide upon the kind and character of pave-
36 ments, sidewalks, curbs, sewers and other improvements which
37 shall be constructed and made upon and in any of the streets and
38 alleys of the city.

39 Employ competent experts to advise with him in planning the
40 improvements of city streets and alleys, in specifying the kind
41 and character of pavements, sidewalks, curbs and sewers, which
42 shall be laid and constructed, and to supervise the performance
43 of the work in paving, sewerage, and improving any street or
44 streets, and alley or alleys; and by contract to specify and fix

45 the compensation which any expert so employed by the city man-
46 ager shall receive for his services, which contract shall not be-
47 come binding or effective until approved by the city council and
48 the fact of such approval entered of record.

49 Authenticated all ordinances and resolutions passed by the
50 council and sign the minutes of all meetings of the council. Im-
51 mediately upon the meeting of the council the minutes of the
52 preceding meeting shall be read and corrected if they contain
53 any errors, and they shall be signed by the city manager and
54 city clerk before the council proceeds to the transaction of any
55 business.

56 Act as purchasing agent and purchase all supplies and ma-
57 terial for all departments of the city government and make
58 sale of all property of the city not needed or suitable for the
59 public use in such manner as the council may direct. *Provided,*
60 *however,* he shall not make any contract or purchase involving an
61 expenditure in excess of \$200.00 without first obtaining the
62 assent of the council so to do. All supplies to be used by the
63 city and all material purchased by the city for the construction
64 of any public improvement shall be purchased on competitive
65 bids. All proposals for such shall be upon precise specifications,
66 and notice of the requirements of the city shall be given to
67 dealers in supplies and materials of the kind required who by
68 reason of location are best able to furnish the same at the lowest
69 price. All offers to sell supplies and materials to the city shall
70 be attached to the accepted offer and filed and preserved in the
71 office of the city clerk. All purchases shall be audited by the
72 city council and only on approval of the council shall payment
73 be made: *Provided, however,* that limited quantities of supplies
74 and materials may be purchased in cases of emergency without
75 delay necessary to secure competitive bids or offers to supply the
76 same.

77 Make and execute on behalf of the city all writings, contracts,
78 deeds, and agreements, the making of which shall be authorized
79 by the council, or by any ordinance, resolution or statute.

80 The city manager shall exercise any and all other powers con-
81 ferred by the present laws of the state of West Virginia upon
82 mayors of cities, towns or villages, or which shall be conferred
83 upon such officers by any law hereafter enacted, not in conflict
84 with the provisions of this act, except the powers herein, or in

85 such law, contained relating to the preservation of order and
86 the enforcement of penal ordinances and statutes, which powers
87 in this act are vested in the police court judge.

88 The city manager shall perform the duties of an assessor for
89 said city and shall make an assessment of all of the property
90 within said city both personal, real and mixed as of April first
91 each year hereafter; and for this purpose shall have all the
92 powers and perform all the duties with respect to making assess-
93 ments for said city as are authorized and directed by law of the
94 state of West Virginia, covering county assessors.

95 In addition to all other duties required to be performed by the
96 city manager by this act, he shall also collect all taxes, assess-
97 ments and charges authorized by law and ordinance to be levied
98 upon or collected from persons and property; and shall also be
99 treasurer of said city.

100 The said city manager, shall, before performing any act under
101 his appointment execute bond in the penal sum of not less than
102 ten thousand dollars, conditioned for the faithful performance of
103 all the duties under his employment, and to account for any pay
104 over all monies and property coming into his hands or under his
105 charge, with security to be approved by the city council, and
106 which bond shall be lodged and filed with the city clerk.

The City Clerk.

Sec. 8. The city clerk shall keep a complete record of all ordi-
2 nances, resolutions and acts of the city council. He shall enter
3 in a separate volume all ordinances of a general nature, a violation
4 of which shall subject any person to any penalty, and carefully
5 index the same. All ordinances providing for the issuing of
6 bonds, the creation of a debt, the construction of any public im-
7 provement, or of any local or temporary nature shall be entered
8 in a separate volume by the city clerk, and carefully indexed. He
9 shall keep complete books of account showing all financial trans-
10 actions of the city and of each department, all receipts and ex-
11 penditures made by the city, the sources of all income and the pur-
12 poses of all expenditures. He shall enter in the municipal assess-
13 ment docket all special assessments made for public im-
13-a provements, showing the name of the owner of the prop-
14 erty, the particular property on which the assessment is
15 levied, the date of the entry, and the minute book and

16 page showing the entry of the ordinance or resolution creating
17 the assessment, and the maturing time of the assessment. When
18 and as the installments upon principal and interest on each as-
19 sessment shall be paid, he shall enter such payments showing the
20 amount paid upon principal, the amount of interest, under the
21 heading and in the account of such special assessment. When
22 the special assessment, principal and interest, shall have been paid
23 in full, he shall make an entry in red ink on the face of the ac-
24 count showing that the special assessment is fully satisfied and
25 paid. He shall make out vouchers and pay-rolls of the city, and
26 shall do and perform all other duties which may be required of
27 him by the council by any ordinance or resolution.

28 He shall attend all meetings of the council and keep in a proper
29 minute book a record of its proceedings, and sign the record of
30 each said proceeding.

31 He shall prepare and cause to be served all notices required to
32 be given to any person, firm or corporation, and after proper
33 service and return thereof of any notice, he shall file and preserve
34 the same.

35 He shall file in convenient form so as to be readily accessible
36 all correspondence carried on by the city, and, as custodian of all
37 the books, records and proceedings of the council, he shall make
38 and certify copies thereof whenever required and affix the cor-
39 porate seal of the city to any paper required to be sealed and to
40 any certified copy of any paper, order or proceeding which he
41 may make.

42 A copy of any record, paper, entry, order, ordinance, resolution
43 or proceeding made by the council, or by the police court judge
44 when properly certified under the seal of the city shall be ad-
45 missible as evidence in any court in the state in any proceeding
46 in which the original paper or record, if present would be admis-
47 sible.

Police Court Judge.

Sec. 9. The police court judge, filling that office by virtue
2 of holding the office of city clerk, shall perform and discharge
3 all duties and exercise all powers which shall be conferred upon
4 him by any ordinance or resolution of the city council, and
5 in addition, he shall exercise the following powers:

6 Enforce all ordinances and resolutions which shall subject any
7 person or corporation to any penalty.

8 See to the preservation of peace and order throughout the city
9 and the protection of property in and throughout the city.

10 Cause all violators of city ordinances to be apprehended and
11 to that end issue warrants upon complaint under oath of any
12 person or officer for the arrest of any one charged with the vio-
13 lation of any ordinance of the city.

14 Supervise and control the police department and by and
15 with the consent of the council appoint all members of the po-
16 lice force, except the chief of police, and require of all members
17 of the police force, including the chief, the proper discharge
18 of their respective duties.

19 Try all offenders brought before him and punish by fine or
20 imprisonment any person convicted for any offense, and his
21 jurisdiction in that regard shall extend one mile beyond the
22 city limits generally and for the violation of any ordinance or
23 law prohibiting the pollution of the water or waters from which
24 the city of Shinnston obtains water for domestic use his jurisdiction
25 shall be co-extensive with the water or waters from which such
26 supplies are drawn; *provided*, that he shall not exercise juris-
27 diction over any offense committed within the corporate limits
28 of any other city, town or village.

29 Keep a record of all warrants issued by him, of all persons
30 arrested and brought before him, and of all trials, fines or sen-
31 tences imposed, or judgments entered by him, in a well-bound
32 book to be known as the police court docket. A record of the
33 entries made each day in said docket shall be signed by the
34 police court judge at the close of the day. An appeal shall lie
35 to the circuit court or to the criminal court of Harrison county
36 from all judgments of the police court judge wherein and in the
37 manner an appeal from the judgment of a mayor of a city is
38 allowed by law.

39 Exercise the power to punish within the limits prescribed by
40 the ordinances of the city or by the laws of the state of West
41 Virginia applicable to the city and not in conflict with this
42 act.

43 Exercise all of the powers and discharge all of the duties for
44 the enforcement of the criminal or penal ordinances and laws
45 conferred or imposed upon the mayors of cities, towns, or vil-
46 lages or by this act, or by any law of the state of West Virginia,
47 or by any law which may hereafter be enacted by the law making

48-49 body of said state not in conflict with the provisions of this act,
50 except that he shall not be *ex-officio* a justice of the peace, or
51 exercise the powers of a justice of the peace.

52 All fines assessed and collected by said police court judge shall
53 be paid over to the city treasurer, for account of the general
54 fund, upon the receipt of such treasurer to such police court
55 judge covering the amount, and such receipts shall be filed by
56 said police court judge with the papers in each case. Said police
56-a court judge shall add to and collect from the convicted before
57 his court, such fees and costs as are allowed by general law to
58 justices and constables, and which fees and costs shall be paid
59 over to the officers entitled thereto.

60 Discharge any member of the police force except the chief of
61 police: *provided, however*, that council may reinstate any mem-
62 ber discharged by an affirmative vote of two-thirds of all of the
63 members elected to the council.

The City Collector and Treasurer.

Sec. 10. The city manager shall be city collector and treas-
2 urer and shall have custody of all public moneys for the city;
3 shall keep and preserve such moneys as provided by ordinance
4 or by any law applicable thereto; and shall collect and receive;
5 and shall disburse, upon warrants issued by the proper authority,
6 all public moneys. He shall keep an accurate account of all
7 moneys in his custody, or collected, received or paid out by
8 him, showing the sources from which the same were received and
9 the purposes for which disbursed.

10 The council may prescribe by ordinance or resolution the
11 manner in which a warrant for the payment of money shall be
12 issued, executed and authenticated.

13 The city collector shall keep a record of all taxes assessed and
14 levied and shall extend said levies and make out tax bills and
15 receipts to be delivered to the tax payers upon the payment of
16 taxes. He shall collect all assessments made against property or
17 property owners for local benefits and give receipts therefor.

18 He shall keep separate the accounts and funds of all levies
19 and assessments for specific purposes and shall disburse the same
20 only for the purposes for which the levies and assessments were
21 made.

22 He shall file, preserve and keep all receipts and vouchers for
23 money expended or paid out by him showing the purpose for
24 which the payment was made.

City Attorney.

Sec. 11. The city attorney shall be a member of the bar of Har-
2 rison county in good standing and shall perform and discharge all
3 duties and exercise all powers which shall be conferred upon him
4 by any ordinance or resolution of the city council, and, in addi-
5 tion, he shall exercise the following powers:

6 Be the legal adviser of and attorney and counsel for the city and
7 for all of the administrative officers thereof, in respect to their
8 official duties.

9 Prosecute and defend all suits for or against the city and pre-
10 pare all contracts, bonds or other writings in which the city is con-
11 cerned, and endorse on each his approval of the form and correct-
12 ness thereof.

13 The city council and all administrative officers of the city may
14 require the opinion of the city attorney upon any question of law
15 involving their respective powers and duties and he shall furnish
16 the same in writing.

17 Apply in the name of the city to a court of competent jurisdic-
18 tion for an order of injunction restraining the misapplication of
19 funds of the city or the abuse of its corporate powers, or the exe-
20 cution or performance of any contract made on behalf of the city
21 in contravention of law, or which was procured by fraud or cor-
22 ruption.

23 When an obligation or contract made on behalf of the city
24 granting a right or easement, or creating a public duty is evaded
25 or violated, the city attorney when required by council shall re-
26 quire the specific performance of the duty by application for a
27 writ of mandamus or by other appropriate proceeding to a court
28 of competent jurisdiction.

29 The city manager or city council whenever the exigencies of the
30 business of the city require such action shall have the right to em-
31 ploy special counsel to assist the city attorney.

City Physician.

Sec. 12. The city physician shall be a member of the medical
2 profession in good standing and shall discharge all duties and

3 exercise all powers which shall be conferred upon him by any or-
4 dinance or resolution of the city council; and, in addition, he
5 shall exercise the following powers:

6 See that all property and premises within the city are kept clean
7 and free from unsightly or obnoxious rubbish and in a thoroughly
8 sanitary condition.

9 See that all ponds, cess-pools and swamps within or adjacent
10 to the city are drained, cleaned and rendered sanitary.

11 Institute before the police court judge all proceedings and pros-
12 ecutions necessary to enforce all laws, ordinances and regulations
13 relating to the preservation and promotion of the public health
14 and necessary to make the city sanitary, and to prevent and re-
15 strict diseases, and in so doing, he shall have the assistance of the
16 city attorney.

17 Institute and prosecute proceedings for the supervision, preven-
18 tion or abatement of nuisances and in so doing, he shall have the
19 assistance of the city attorney.

20 Provide for the sanitary inspection and supervision of the pro-
21 duction, transportation, storage and sale of food and food stuffs,
22 the regulation and inspection of weights and measures, and the
23 collection and disposal of all waste and garbage.

24 In time of epidemic or threatened epidemic, he shall enforce
25 such quarantine and isolation rules and regulations as are ap-
26 propriate for the emergency.

27 Provide for study and research into cases of poverty, delin-
28 quency, crime and disease. He shall by lectures, public instruc-
29 tions and otherwise instruct and educate the people of the com-
30 munity in matters affecting the public welfare which relate to san-
31 itation, cleanliness, and how to avoid in-so-far as possible sickness
32 and disease.

Chief of Police.

Sec. 13. The chief of police shall discharge such duties as may
2 be required of him by any ordinance or resolution of council and
3 he shall act under the orders of the police court judge in adminis-
4 tering the police department.

Chief of Fire Department.

Sec. 14. The chief of the fire department shall be under the
2 direction, authority and subject to the orders of the city man-

3 ager at all times in the administration of the fire department.
4 He shall make such inspection as may be required of building and
5 property throughout the city in relation to the matter of fire risks
6 and see to the enforcement of all fire precaution ordinances.

7 He shall, under the direction of the city manager, discharge all
8 the duties which may be imposed upon him by any ordinance or
9 resolution adopted or passed by the city council.

Public Utility Franchises.

Sec. 15. The city council may by ordinance grant or refuse
2 permission to any individual, firm or corporation to construct and
3 operate a public utility in, over and under the streets, alleys and
4 public grounds of the city under the provisions of law applicable
5 thereto; but no franchise shall be considered an emergency meas-
6 ure. It may by ordinance renew any franchise to construct and
7 operate a public utility in, over and under the streets, alleys and
8 public utility in, over and under the streets, alleys and public
9 grounds of the city, or may grant to any individual, firm or cor-
10 poration operating a public utility the right to extend the appli-
11 ances and service of such utility; but the right to use and main-
12 tain any such extension shall expire with the original grant to
13 the utility or of any renewal thereof. It shall control the dis-
14 tribution of space in, over or across all streets or public grounds
15 occupied by public utility fixtures. No franchise shall be
16 granted for a period exceeding fifty years, and no renewal thereof
17 shall exceed a like period.

Corporate Powers.

Sec. 16. All corporate powers of the city shall be vested in and
2 exercised by the council except as in this act otherwise conferred.
3 Each councilman shall have a right to vote on all
4 questions coming before the council. Five or more members of the
5 council shall constitute a quorum, and the affirmative vote of at
6 least a majority of the members of the council present at a meet-
7 ing shall be necessary to adopt any motion, resolution, or ordin-
8 ance or pass any measure.

9 The city manager, hereinbefore provided for, shall preside at all
10 meetings of the council when present, and in his absence, the coun-
11 cil shall select a presiding officer. The city manager or other
12 presiding officer shall have no power to veto any measure, resolu-

tion or ordinance, and shall be entitled to vote upon the passage of the same only in the case of a tie. But every resolution, ordinance or franchise passed by the council must be signed by the city manager and the city clerk or recorder and must be published and recorded before the same shall be effective, unless otherwise provided in this act.

Powers of the Council.

Sec. 17. The council of said city shall have and are hereby granted power to have said city surveyed; to open, vacate, broaden, change grade of, grade and pave streets, sidewalks and gutters for public use, and to alter, improve, embellish and ornament and light the same, and to construct and maintain public sewers and laterals, and shall in all cases except as to lighting have power and authority to assess upon and collect from the property benefited thereby all, or such part of the expense thereof, as shall be fixed by ordinance, except as hereinafter provided; to have control of all streets, avenues, roads, alleys and grounds for public use in said city, and to regulate the use thereof and driving thereon, and to have the same kept in good order and free from obstruction, pollution or litter on or over them; to have the right to control all bridges within said city and the traffic passing thereover; but all bridges within said city shall be and remain the property of said Harrison county; to change the name of any street, avenue or road within said city, and to cause the re-numbering of houses on any street, avenue or road therein; to regulate and determine the width of streets, sidewalks, roads and alleys; to order and direct the curbing and paving of sidewalks and footways for public use in said city to be done and kept clean and in good order by the owners of adjacent property; to enter into a contract with any internal improvement company for the joint ownership of any bridge by the city and such company, upon such terms as may be prescribed in the contract, but such bridge shall be a public highway; to prohibit and punish the abuse of animals; to restrain and punish vagrants, mendicants, beggars, tramps, prostitutes, drunken or disorderly persons within the city, and to provide for their arrest and manner of punishment; to prohibit by ordinance the bringing into the city of any person or animal afflicted with contagious or infectious disease, and to punish any violator of said

31 ordinance who knows or has reason to believe such person or ani-
32 mal to be so afflicted; to control and suppress disorderly houses
33 of prostitution or ill-fame, houses of assignation, and gaming
34 houses or any part thereof, and to punish gaming; to prohibit
35 within said city or within three miles thereof slaughter houses,
36 soap or glue factories and houses of like kind; to control the con-
37 struction and repair of all houses, basements, walls, bridges, cul-
38 verts and sewers, and to prescribe and enforce all reasonable reg-
39 ulations affecting the construction of the same, and to require
40 permits to be obtained for such buildings and structures, and
41 plans and specifications thereof to be first submitted to the
42 city council; to control the opening and construction of ditches,
43 drains, sewers, cess-pools and gutters, and to deepen, widen
44 and clear the same of stagnant water or filth, and to prevent
45 obstructions therein, and to determine at whose expense the
46 same shall be done; and to build and maintain fire station
47 houses, police stations and police courts, and to regulate the
48 management thereof; to acquire, lay off, appropriate and control
49 public grounds, squares and parks, either within or without the
50 city limits as herein defined; to purchase, sell, lease or contract
51 for and take care of all public buildings, and structures and real
52 estate, including libraries and hospitals, deemed proper for use
53 of such city; and, for the protection of the public, to cause the re-
54 moval of unsafe walls or buildings, and the filling of excavations;
55 to prevent injury or annoyance to the business of individuals
56 from anything dangerous, offensive or unwholesome; to define,
57 prohibit, abate, suppress and prevent all things detrimental to
58 the health, morals, comfort, safety, convenience and welfare of
59 the inhabitants of the city, and all nuisances and causes thereof,
60 and to that end and thereabout to summon witnesses and hear
61 testimony; to declare and enforce quarantine against the intro-
62 duction of any contagious or infectious disease prevailing in any
63 other state, county or place, and of any and all persons and things
64 likely to spread such contagion or infection; to regulate the keep-
65 ing of gun powder and other combustible or dangerous articles;
66 to regulate, restrain or prohibit the use of firecrackers, or other
67 explosives, or fireworks, and all noises or performances which
68 may be dangerous or annoying to persons or tend to frighten
69 horses or other animals; to provide for shade and ornamental
70 trees and the protection of the same; to provide for the making

71 of division fences; to make proper regulation for guardian against
72-78 danger or damage from fires; to make suitable and proper reg-
79 ulations in regard to the use of the streets and alleys for street
80 cars, railroad engines and cars, and to regulate the running and
81 operation of the same so as to prevent injury, inconvenience or
82 annoyance to the public; to prohibit prize fighting, cock and dog
83 fighting; to license, tax, regulate or prohibit theatres, circuses,
84 the exhibition of showmen and shows of any kind and the exhi-
85 bition of natural or artificial curiosities, caravans, menageries,
86 pictures, motion pictures and musical exhibitions and per-
87 formances; to regulate the construction, height and material
88 used in all buildings, and the maintenance and occupancy
89 thereof; to regulate and control the use for whatever purpose of
90-92 the streets and other public places; to organize and main-
93 tain fire companies and to provide necessary apparatus, engines
94 and implements for the same; to regulate and control the kind and
95 manner of plumbing and electric wiring for the protection of the
96 health and safety of said city; to levy taxes on persons, property
97 and licenses; to license and tax dogs and other animals, and
98 regulate, restrain and prohibit them and all other animals and
99 fowls from running at large; to assess, levy and collect taxes for
100 general and special purposes upon all the subjects or objects
101 which the city may lawfully tax; to levy and collect assessments
102 for local improvements; to borrow money on the faith and credit
103 of the city by the issue and sale of bonds in the manner pre-
104 scribed by law; to appropriate the money of the city for all lawful
105 purposes; to create, provide for, regulate and maintain all things
106 in the nature of public works and improvements; to adopt rules
107 for the transaction of business and for its own regulation and gov-
108 ernment; to promote the general welfare of the city and to protect
109 the persons and property of citizens therein; to regulate and pro-
110 vide for the weighing of produce and other articles sold in said
111 city and to regulate the transportation thereof, and other things
112 through the streets, to have the sole and exclusive right to grant,
112-a refuse or revoke any and all licenses for the carrying on of any
113 business within said city on which the state exacts a license tax;
114 to establish and regulate markets and to prescribe the time for
115 holding the same, and what shall be sold in such market, and to
116 acquire and hold property for market purposes; to regulate or
117 prohibit the placing of signs, bill-boards, posters and advertise-

118 ments, in, on or over the streets, alleys, sidewalks and public
119 grounds of said city; to preserve and protect the peace, order and
120 safety and health of the city and its inhabitants, including the
121 right to regulate the sale and use of cocaine, morphine, opium
122 and poisonous drugs; to make, enforce and provide local police,
123 sanitary and other regulations, and fully exercise all lawful
124 police powers; to appoint and fix the places of holding city elec-
125 tions; to erect, own, lease, authorize or prohibit the erection of
126 gas works, telephone plant or electric light works in or near the
127 city, and to operate the same and sell the products or services
128 thereof, and to do any and all things necessary and incidental to
129 the conduct of such business; to provide for the purity of milk,
130 meats and provisions offered for sale in the said city, and to that
131 end provide for a system of inspecting the same and making and
132 enforcing rules for the regulation of their sale, and to prohibit
133 the sale of any unwholesome or tainted milk, meats, fish, fruit,
134 vegetables, or the sale of milk containing water or other things
135 not constituting a part of pure milk; to provide for inspecting
136 dairies and slaughter houses, whether in or outside of the city,
137 where the milk and meat therefrom are offered for sale within
138 said city; to prescribe and enforce ordinances and rules for the
139 purpose of protecting the health, property, lives, decency, mor-
140 ality and good order of the city and its inhabitants, and to pro-
141 tect places of divine worship in and about the premises where
142 held, and to punish violations of such ordinances even if the of-
143 fense under and against the same shall constitute offenses under
144 the law of the state of West Virginia or the common law; to pro-
145 vide for the employment and safe keeping of persons who may
146 be committed in default of the payment of fines, penalties or
147 costs under this act, the city ordinances and laws of this state
147-a who are otherwise unable or fail to discharge the
148 same, by putting them to work for the benefit of the city
149 upon the streets or other places provided by said city, and to use
150 such means to prevent their escape while at work as the council
151 may deem expedient; and the council may fix a reasonable rate
152 per day as wages to be allowed such person until the fine and
153-154 costs against him are thereby discharged; to prevent
155 any person, association or corporation from polluting in any
156 manner any pond, lake, basin, reservoir, stream, spring, creek, or
157 other body of water from which the city shall take water to be

158 used for domestic purposes by the inhabitants thereof, or from
159 casting into any such body of water, or on the bank thereof or in
160 such proximity thereto that the same may enter therein, any
161 filthy, unwholesome, or obnoxious substance, object, or liquid, or
162 anything whatsoever, injurious to the health of the people of the
163 city; to exercise all other powers that now are or hereafter may
164 be granted to municipalities by the constitution or the laws of the
165 state of West Virginia; and all such powers, whether expressed
166 or implied, shall be exercised and enforced in the manner pre-
167 scribed by this charter, or when not prescribed herein, in such
168 manner as shall be provided by the ordinances or resolutions of
169 the council.

170 The enumeration of particular powers of this charter shall
171 not be held or deemed to be exclusive, but in addition to the
172 powers enumerated herein, impliedly thereby, or appropriate to
173 the exercise thereof, the council shall have and exercise all other
174 powers, which, under the constitution and laws of the state of
175 West Virginia it would be competent for this charter specifically
176 to enumerate.

177 The council shall provide for the enforcement of all ordi-
178 nances by reasonable and proper penalties, consisting of fines or
179 imprisonment, or fines and imprisonment, with suitable rules
180 and regulations for the enforcement of such penalties. For all
181 such purposes the jurisdiction of the city shall, when necessary,
182 extend for one mile beyond the corporate limits of said city.
183 In order to prevent the pollution of the waters from which the
184 people of the city take water for domestic uses, the jurisdiction
185 of the city shall co-extensive with the location and extent of the
186 water from which supply is taken, except that in no event shall
187 such jurisdiction of the city of Shinnston exist within any other
188 incorporated city or towns.

Ordinance Enactment.

Sec. 18. Each proposed ordinance or resolution shall be intro-
2 duced in written or printed form, and shall not contain more than
3 one subject, which shall be clearly stated in the title; but the gen-
4 eral appropriation ordinances may contain the various subjects
5 and accounts for which moneys are to be appropriated. The
6 enacting clauses of all ordinances passed by the council shall be
7 "Be it ordained by the city of Shinnston:"

8 No ordinance, unless it be declared an emergency measure
9 shall be passed on the day of which it shall have been introduced,
10 unless so ordered by affirmative vote of all the members of the
11 council.

12 No ordinance or resolution or section thereof shall be revised
13 or amended, unless the new ordinance or resolution contain the
14 entire ordinance or resolution or section revised or amended and
15 the original ordinance, resolution, section or sections so amended
16 shall be repealed.

17 The record shall show whenever the vote is unanimous. In all
18 other cases the yeas and nays shall be called and recorded. No
19 member shall vote on any matter in which he has a personal inter-
20 est other than as a tax-payer of the city. Unless excused by a vote
21 of the council all qualified members present shall vote on all roll
22 calls. Any such member refusing to vote shall be recorded as
23 voting nay.

Code of Laws.

Sec. 19. The council may enact laws, by-laws and ordinances
2 which when adopted shall be printed in book form, or the same
3 may be adopted as a whole after they are printed, and such code
4 shall be the laws and ordinances of the city and shall be received
5 as such in all courts of the state, and the laws, ordinances, and
6 rules as printed therein shall be *prima facie* proof of their own
7 correctness.

8 No ordinance, law, or by-law imposing any penalty or forfeiture
9 upon any person shall be valid or of any effect until recorded in
10 the ordinance book of the city.

Existing Indebtedness, Contracts and Ordinances.

Sec. 20. The entire indebtedness, bonded and otherwise,
2 all other liabilities, liquidated or unliquidated, now existing and
3 enforceable against the city of Shinnston, shall be paid and dis-
4 charged by the city of Shinnston herein created or continued; all
5 ordinances of said city now existing and not in conflict with this
6 act shall continue to be ordinances of said city until altered,
7 changed or repealed by the council of said city; and all contracts
8 entered into by the city for its benefit prior to the taking effect
9 of this act shall, if valid, continue in full force and effect. All
10 public work commenced prior to the taking effect of this act shall

11 be continued and performed hereunder. The municipal cor-
12 poration herein created shall succeed to all the rights and be
13 subject to all of the liabilities of the municipal corporation which
14 it succeeds, or of which it is a continuation.

Service of Notice.

Sec. 21. Whenever any notice is required to be given by the city
2 or any department thereof, or any summons, warrant or other
3 process is required to be served or otherwise executed under the
4 provisions of this act, it shall be sufficient if such notice, summons,
5 warrant or other process be served or executed and return thereof
6 be made by any member of the police force of said city in the
7 same way or manner in which the laws of the state provide for
8 serving and executing notices, summons and warrants by state
9 officers, unless otherwise provided in this act.

Bonds of Employees.

Sec. 22. Each officer and employee of the city in each and all
2 of the departments of the city government into whose custody
3 or control shall come any of the moneys or funds belonging to
4 the city shall before receiving any such money or funds enter
5 into bond conditioned for the faithful discharge of his duties and
6 for the faithful accounting for all moneys coming into his hands,
7 custody or control by reason of his office or employment, and
8 otherwise conditioned according to law. Such bond shall be in
9 the penalty sufficient to secure the city against loss, the amount
10 thereof to be fixed by ordinance of the city council. All such
11 bonds shall be payable to the city of Shinnston, a municipal corpo-
12 ration, and all suits for the enforcement of the penalty of any
13 bond shall be in the name of the city of Shinnston. All bonds
14 required shall be of the form and tenor prescribed by the city
15 attorney and shall be approved by the city council as to the suf-
16 ficiency of the sureties thereon, and such approval as to the form
17 and tenor of the bond shall be endorsed on each bond and certified
18 and signed by the city attorney. All such bonds when executed
19 and approved shall be recorded in a book kept for that purpose
20 by the city clerk, and the original bonds shall then be delivered to
21 the city attorney who is hereby made custodian of all such bonds.
22 At the annual audit required to be made by the state tax com-
23 missioner or supervisor of public accounting for the state of West

24 Virginia, the auditor shall report to the city council whether or
25 not the bonds required and taken by said city council are in any
26 respect insufficient, or not properly executed, and the city council
27 may require of any official or employee of the city a new bond or
28 additional bond, and any new or additional bond so required by
29 the council of any official or employee shall be given within ten
30 days after notice of such requirement, and a failure to give such
31 bond shall at the expiration of ten days forfeit the office or em-
32 ployment of the official or employee failing to give the same.

Application of Funds.

Sec. 23. All revenues derived from the operation of the water
2 works system or plant, or from the sale of bonds issued for re-
3 pairing, improving, enlarging, extending or adding to said water
4 works plant shall be applied to the payment of the cost of opera-
5 tion and of making such improvements, to the payment of interest
6 upon any bonds and the sinking fund to pay off and discharge the
7 same, which the city of Shinnston is herein authorized to assume
8 and pay, whether said bonds were heretofore or may be hereafter
9 issued. Out of the revenues derived from the operation of said
10 water works, the council is authorized to pay all salaries and
11 expenses which may be incurred by it in the exercise of any
12 power in this section conferred or the performance of any duty
13 herein imposed or by general law conferred or imposed.

Depositing City Funds.

Sec. 24. It shall be the duty of the city treasurer to keep all
2 funds of the city in some bank or banks, within said city, which
3 shall pay interest on such deposits and which shall pay interest
4 on the average daily balance of such funds in all accounts of
5 the per cent equal to that paid by state depositories on all funds
6 of the state of West Virginia and in the same manner and at the
7 same time. If no bank within the city is willing at any time to re-
8 ceive deposits of the treasurer and to pay such interest thereon,
9 the treasurer shall report this fact to the council, who shall
10 thereupon designate a bank or banks in which he shall deposit
11 said funds for the time being and until some bank in said city
12 will receive such deposits on such terms.

Misappropriation of Funds.

Sec. 25. Any members of council or any officer of, or connected with, the city government pursuant to any law of this state or ordinance of the city now or hereafter passed, who shall, in his official capacity or under color of his office, knowingly or wilfully, or corruptly vote for, assent to or report in favor of or allow, or certify for allowance, any claim or demand against the city, which claim or demand shall be on account or under color of any contract or agreement not authorized by or in pursuance of the provisions of this act, or the ordinances of the city, or any claim or demand against the city and which claim or demand or any part thereof shall be for work not performed for and by authority of said city or for supplies or materials not actually furnished thereto pursuant to law or ordinances, and every such member or officer as aforesaid, who shall knowingly vote for, assent to, assist or otherwise permit, or aid in the disbursement or disposition of any money or property belonging to the city to any other than the specific use or purpose for which such money or property shall be or shall have been received or appropriated or collected or authorized by law to be received, appropriated or collected, shall, upon conviction thereof, be punished by imprisonment in the county jail for a period of not less than sixty (60) days nor more than one year, or by a fine of not less than sixty dollars, or more than two thousand dollars, or by both.

Financial Statement. Audit.

Sec. 26. At the end of each year the council shall cause a full and complete audit of all the books and accounts of the city to be made by the state tax commissioner, and shall make public the result of such examination. At the end of the year there shall be published a financial statement of the city covering the transactions of the preceding fiscal year, in the manner required by law.

Budget.

Sec. 27. The council shall have the right to make up an estimate of the proposed improvements for any year and a budget covering the same, at such time as may be deemed most suitable without regard to the requirements of a general statute, and it

5 may from time to time prepare and adopt additional estimates
6 and budgets during the current year whenever in the judgment of
7 the council the public interests will be promoted thereby.

Contracts—Cost Plus Work.

Sec. 28. Public improvements of all kinds may be made,
2 either by direct employment of the necessary labor and the pur-
3 chase of the necessary supplies and materials, with separate ac-
4 counting as to each improvement so made, or by contract duly let
5 after competitive bidding, either for a gross price, or upon a unit
6 basis for the improvement; or by contract containing a guaran-
7 teed maximum and stipulating that the city shall pay within such
8 maximum the cost of labor and materials, plus a fixed percent-
9 age of profit to the contractor. The council, by resolution,
10 shall determine by which of the foregoing methods any improve-
11 ments shall be made. Contracts may provide a bonus per day for
12 completion of the contract prior to a specified date, and liqui-
13 dation damages to the city to be exacted in like sum for every
14 day of delay beyond a specified date.

Changes in Contracts.

Sec. 29. When it becomes necessary in the prosecution of any
2 work, or improvement under contract, to make alterations or
3 modifications in such contract, such alterations or modifica-
4 tions shall be made only upon resolution of the council. No
5 such order shall be effective until the price to be paid for the
6 work and material, or both under the altered or modified contract,
7 shall have been agreed upon in writing and signed by the contrac-
8 tor and the city manager under authority of the council.

Lot Sub-Divisions.

Sec. 30. Any owner of lots or grounds within the city who
2 sub-divides or lays them out for sale, shall cause to be made an ac-
3 curate map or plat of such sub-division, describing with cer-
4 tainty all grounds laid out, or granted for streets, alleys, ways,
5 commons, or other public uses. Lots sold or intended for sale
6 shall be numbered by progressive number, or described by the
8 be given of each lot sold or intended for sale. Such map or plat
7 squares in which situated, and the precise length and width shall
9 shall be subscribed by the owner and lienholders, acknowledged

10 before an officer authorized to take the acknowledgement of
11 deeds, approved by the city manager, and recorded in the office of
12 the clerk of the county court.

13 The map or plat so recorded shall thereupon be a sufficient
14 conveyance to vest in the city the fee of the parcels of land
15 designated or intended for streets, alleys, ways, commons, or
16 other public uses, to be held in the corporate name in trust to
17 and for the uses and purposes in the instrument set forth, ex-
18 pressed, designated, or intended.

19 The city, however, shall not be required to open or improve
20 any street or alley shown on such plat until the public need
21 requires the same to be opened and improved, and it shall
22 not be liable to any person in any manner whatever who may or
23 shall use any of such streets or alleys before the same shall
24 have been formally accepted by the council on the part of the
25 city and ordered to be opened and improved.

Motor Vehicles.

Sec. 31. The city council shall have power to license and regu-
2 late by ordinance all taxi-cabs, automobiles and vehicles of like
3 motive power engaged in the transportation of passengers or
4 freight for hire over the streets and alleys of the city, and may re-
5 quire bond from the owners thereof for their faithful compliance
6 with all ordinances and rules and regulations made in pursuance
7 thereof.

Assessments for Removing Snow, Weeds, etc.

Sec. 32. The city council shall have power to provide by ordi-
2 nance for assessing against the abutting property the cost of re-
3 moving from sidewalks all accumulations of snow and ice and for
4 assessing against the property the cost of removing rubbish and
5 the cutting and removing of noxious weeds from any lot or grounds
6 in the city.

Eminent Domain.

Sec. 33. The city of Shinston as herein created or continued
2 shall have the right under the power of eminent domain to con-
3 demn, acquire and appropriate any property and acquire the fee
4 simple title or any lesser estate or easement therein for any public
5 use, whether said property be located within or outside of the cor-

6 porate limits of said city, including the right to acquire property
7 for opening and widening streets, alleys and public places, and
8 for the construction and maintenance of sewer lines, sewage dis-
9 posal plants, water lines and mains, pump stations, reser-
10 voir or reservoir sites, dams for storing water, and right to create
11 storage reservoirs by flooding adjacent properties, and for every
12 other purpose required in the construction, maintenance and op-
13 eration of water systems and plants for the purpose of supplying
14 water to the public. The proceedings to acquire such lands, es-
15 tates, or easements shall be the same as provided by general laws of
16 the state of West Virginia for condemning and appropriating pri-
17 vate property for public use.

Supply Water Outside of City.

Sec. 34. The city council may in its discretion supply, sell
2 and furnish water for consumption and use outside of the city, or
3 for use in industries located adjacent to the city and to afford fire
4 protection for the same. All water so supplied and services
5 rendered shall be upon such conditions and terms as the city coun-
6 cil may prescribe or require, and reasonable charges over and
7 above the rate charged within the city for water and like service
8 may be made for all water supplied and services rendered outside
9 of the city.

10 The city council may discontinue supplying water or furnishing
11 service to persons, firms or corporations outside of the city when-
12 ever in the judgment of the members of the council such discontin-
13 ance is advisable in order to adequately supply the needs of water
14 consumers in the city and to afford proper protection to property
15 therein.

Taxes.

Sec. 35. The council shall ascertain the total expense of the city
2 to be provided for by levy for the fiscal year in which said levy is
3 made, and it shall make a detailed itemized estimate of the sum
4 of money necessary to pay interest accruing on the bonded in-
5 debtedness of said city, the amount required for the several sink-
6 ing funds for the reduction of the principal thereof, the amounts
7 necessary for the support of the various departments of the city
8 and for the improvements of its streets, alleys, avenues, and pub-
9 lic grounds, real and personal property, contingent expenses and
10 other expenses, together with an itemized statement of the es-

11 timated receipts other than that to be derived by the annual levy ;
12 and after receiving such estimates, and before making the levy,
13 it shall apportion the rate thereof, including the estimated re-
14 ceipts from licenses and all other sources among the several funds
15 so ascertained and provided for, which apportionment shall be
16 spread upon the records of this city, and in making said estimate,
17 providing for the revenue for the fiscal years, etc., it shall be the
18 duty of the council to strictly observe all the provisions of chap-
19 ter nine of the acts of the legislature, one thousand nine hundred
20 and eight, entitled "An act to regulate the rate and manner of
21 laying levies for taxation in counties, magisterial and school
22-23 and independent school districts, and municipal corporations,
24 moneys, incurring of illegal obligations and the laying of
25 illegal levies by any tax levying body, and for the distribution
26 of a portion of the school fund," and all amendments thereto,
27 except where last named act shall be inconsistent with this act
28 as to limit of taxation.

Sec. 36. The council shall have authority to levy and collect
2 an annual tax on real estate and personal property in said city,
3 and to impose a license and assess a tax thereon on wheeled ve-
4 hicles for public hire and for all dogs kept within said city and
5 to impose a tax upon all other subjects of taxation under the
6 several laws of the state which shall be uniform with respect to
7 persons and property within the jurisdiction of said city, and
8 shall only be levied on such property, real, personal and mixed.
9 on which the state imposes a tax; *provided*, that no greater levy
10 shall be laid by said council on the taxable property of said city
11 than fifty cents upon each one hundred dollars of the assessed
12 valuation of the property of the municipality, unless such greater
13 levy shall be authorized by a vote of the people at an election
14 held pursuant to said chapter nine of the acts of the legislature
15 of the year one thousand nine hundred eight; and, *provided*,
16 *further*, that the council shall, in making such levy, be subject
17 to all the provisions of chapter nine of the acts of the legislature
18 of one thousand nine hundred and eight and any and all amend-
19 ments thereto, except as herein provided. There shall be a tax of
20 two dollars (\$2.00) annually assessed on each and every inhabitant
21 of said city over the age of twenty-one (21) years, who is sub-
22 ject to a capitation tax under the laws of the state of West
23 Virginia. The same shall be set out and included in the per-

24 sonal property book against every such inhabitant, and shall be
25 collected under the authority of the city at the time of collect-
26 ing other levies and taxes.

Sec. 37. The city taxes levied annually by the council shall
2 be collected as follows: Immediately after the annual levy for
3 city taxes is laid the council shall direct the proper officer of
4 the city to extend the same on the property books made out by
5 him, including therein the proper capitation tax; he shall make
6 out therefrom proper tax tickets in the following manner: That
7 is to say, instead of a single ticket for the whole amount charged
8 to any person, firm or corporation, there shall be two tickets each
9 for one-half of said amount; these half tickets shall be severally
10 numbered or designated "first" and "second" and the same, after
11 being examined and compared by the council and found to be
12 correct, shall be turned over to the treasurer of the city on the
13 first day of October following the levy and the treasurer's re-
14 ceipt for the gross amount thereof shall be returned, entered upon
15 its record and the treasurer charged therewith. The treasurer
16 shall give notice by publication for twenty (20) days in some
17 newspaper of general circulation in said city, that said tax tickets
18 are in his hands for collection, stating the penalty for non-pay-
19 ment thereof and the time and place where the same may be paid;
20 *provided, however*, that the tax payers shall have the right to an-
21 ticipate the payment of the whole or any part of the taxes as-
22 sessed against him.

23 The one-half ticket designated "first" may be paid to the treas-
24 urer of the city any time before the first day of November next
25 succeeding said levy; the one-half ticket designated "second" may
26 be paid to the treasurer of the city at any time before the first
27 day of May next succeeding said levy. To all the half tickets
28 designated "first" remaining unpaid in the treasurer's hands on
29 the said first day of November succeeding said levy, a penalty of
30 ten per cent shall be added and collected from the tax payers.
31 To all half tickets designated "second" remaining unpaid in
32 the treasurer's hands on the first day of May succeeding said levy
33 a penalty of ten per cent shall be added and shall be collected
34 from the tax payers. On said first day of November succeeding
35 said levy, all such half tickets designated "first", and on said
36 first day of May succeeding said levy all such half tickets desig-
37 nated "second" remaining unpaid in the treasurer's hands shall

38 be taken up by the council and settlement had with said treas-
39 urer on said days, respectively, or on the next succeeding days,
40 respectively, if said days shall fall upon Sunday, and thereupon
41 the council shall place said tickets in the hands of the city col-
42 lector for collection and shall take his receipt therefor, *pro-*
43 *vided, however,* that the council shall have the power any year,
44 by resolution, to extend the time within which the tickets may
45 remain in the treasurer's hands and be paid to him without adding
46 the penalty, for a period named therein not exceeding, however,
47 a total of fifteen days.

48 The city collector shall have the power to collect said tickets
49 so placed in his hands, together with the penalties thereon here-
50 inafter provided, to be added thereto, and the compensation of
51 such city collector for making such collection of the taxes afore-
52 said shall be fixed by the council.

53 The city collector shall be charged with the gross amount of
54 said tax tickets so delivered to him for collection, including the
55 penalties allowed, unless on or before the first day of August of
56 each year he makes out and returns to the council a delinquent
57 list of taxes uncollected for such year, with his oath attached
58 thereto, stating that such list is correct and just and that he has
59 received no part of the taxes mentioned therein, and that he
60 has used due diligence to find property liable to distress for taxes.
61 has found none, and that he could not collect the same.

62 Neither the treasurer nor the city collector shall take or col-
63 lect anything but money for payment of taxes.

Sec. 37-a. The city collector shall have the power to collect the
2 city taxes except as otherwise provided in this act, and he shall
3 also have the power to collect the city claims which may be placed
4 in his hands by the council for collection, except that fines im-
5 posed by the police judge shall not be collected by him.

Sec. 38. All goods and chattels belonging to a person, firm,
2 corporation or estate, assessed with any taxes, whether the same
3 be a capitation tax or a tax upon real estate or personal prop-
4 erty, or an assessment on personal property, or an assessment for
5 paving or other improvements, shall be liable for said tax, and
6 may be distrained therefor in whosoever's possession they may be
7 found and the city collector shall have the same power to collect
8 said tax or assessment from any person owing a debt to or having
9 in his possession any estate belonging to a person assessed with

10 any tax or assessment of any kind that the sheriff has to collect
11 state taxes in such cases. The city collector may distrain and sell
12 for all city taxes and assessments and in all respects have the
13 same power to enforce the collection thereof as the sheriff has
14 to enforce the collection of state taxes.

Sec. 39. There shall be a lien upon all real estate within said
2 city for the city taxes assessed thereon, including such penalties
3 added thereto for non-payment thereof as are prescribed by this
4 act, from the first day of April of the year in which said taxes
5 are assessed. Said liens may be enforced by appropriate suit in
6 any court of record in Harrison county; *provided*, such suit be
7 instituted within five years from the time the said liens attached
8 as herein provided, and such suit may either be instituted by and
9 in the name of the city of Shinnston as plaintiff, or said city may
10 intervene by petition in any suit pending to sell or enforce liens
11 against any real estate which is subject to such lien for said taxes.
12 The liens herein created shall have priority over all other liens,
13 except those for taxes due this state.

Sec. 40. Said liens for city taxes and attendant penalties may
2 also be enforced by certifying the same to the clerk of the county
3 court of Harrison county for certification to the state auditor,
4 and the same may be certified down by said auditor, and sold
5 for taxes, interest, penalties and commissions thereon, in the same
6 manner, at the same time, and by the same officer as real estate
7 is sold for taxes, interest, damages, cost and commissions due
8 the state thereon, which officer shall account therefor on settle-
9 ment with the city and pay over the same to the treasurer of the
10 city.

Improvements and Assessments.

Local Improvements.

Sec. 41. Council shall have power by ordinance to provide for
2 widening, grading, paving, curbing, sewerage and otherwise im-
3 proving in a permanent manner with suitable materials any street
4 or alley, or part thereof, in the city, either by contract or directly
5 by the employment of labor, and to provide for the payment of all
6 or any part of the costs of any such improvement by levying and
7 collecting special assessments upon abutting, adjacent and con-
8 tiguous or other specially benefited property. Any part or all
9 of the property which is to be ultimately sewerage or drained by a

10 trunk line or main sewer or sewer system, may be assessed for
11 the construction of the same. No property shall be exempt from
12 assessment for local improvements because of the ownership or
13 used to which such property is devoted. The amount assessed
14 against the property specially benefited to pay for such local im-
15 provements shall not exceed the amount of benefits accruing to
16 such property. The city manager and city engineer shall deter-
17 mine the particular properties to be assessed with the cost of con-
18 structing any sewer.

Method of Assessments.

Sec. 42. Special assessments upon the property deemed bene-
2 fited by a public improvement shall be by any one or more of the
3 following methods:

4 (a) By a percentage of the value of the property as assessed
5 for taxation.

6 (b) In proportion to the benefits which may result from the
7 improvement.

8 (c) By the foot frontage of the property bounding or abutting
9 upon the improvement.

10 If the latter method is used the property shall be divided into
11 certain classes by city blocks, or otherwise, so that all of the
12 property in any class shall be as nearly as practicable of the same
13 value a front foot, and the total amount to be raised by special
14 assessments shall be apportioned among the several classes into
15 which the properties may be divided in proportion to the values
16 of the respective classes.

17 The assessment a front foot upon any lot may be apportioned
18 between or among the respective owners of the property to an en-
19 tire lot depth in proportion to values as well as in proportion
20 to the benefits received from the improvement.

Preliminary Resolutions.

Sec. 43. When it is deemed necessary to make any improve-
2 ment to be paid for in whole or in part by special assessments,
3 the council shall declare the necessity therefor by resolution, and
4 such resolution shall designate the street or streets, alley or
5 alleys to be improved, and the method of assessment and mode of

6 payment, and the number of annual installments, together with
7 the total estimated cost of the improvement. Such resolution
8 shall be certified to the city manager who shall thereupon proceed
9 to make an assessment report in accordance with the method of
10 assessment provided in the resolution, which report shall be filed
11 with the council and shall show the lots and lands assessed and
12 the amount of the assessment as to each, together with the amount
13 of benefit or damage to each lot or parcel of land to be assessed,
14 and also an estimate of the life of the improvement, and the num-
15 ber of annual installments in which the assessment shall be paid
16 shall be fixed, but in no case shall they be greater in number than
17 the estimated years of the life of the improvement.

Plans for Improvements.

Sec. 44. At the time of the passage of the resolution provided
2 for in section fifty-four, there shall be on file at the office of the
3 city manager plans, specifications, estimates and profiles of the
4 proposed improvements, giving full information in detail of the
5 work or improvement and of the kind and character of materials
6 to be used therein, and the same shall be open to inspection by the
7 public.

Notices Served.

Sec. 45. Upon the filing of such report the city clerk shall cause
2 written notice to be served upon the owner of each lot or parcel
3 of land to be assessed, or otherwise affected, or upon the persons
4 in whose names the same may be assessed for taxation upon the
5 tax duplicate. Said notice shall be served in the manner pro-
6 vided for service of summons in civil actions; and as to all non-
7 residents and persons not found within the city publication of
8 such notice shall be made at least once in a daily newspaper of
9 general circulation in the city.

10 Said notice shall contain a statement of the character of the pro-
11 posed improvements, the fact that such assessment report has
12 been filed with the council, the name or names of such assess-
13 ments, the amount of the assessments, the number of installments,
14 the total estimated cost of the improvement, the amount of benefit
15 or damage to such lot or parcel of land, and shall state a time
16 and place when complaints and claims will be heard before the
17 board of revision of assessments.

Board of Revision of Assessments.

Sec. 46. The city manager, city attorney and city engineer shall
2 constitute the board of revision of assessments which shall organize
3 and meet at times and places to be provided by its rules, and shall
4 hear all claims and objections as to the character of all improve-
5 ments to be paid for in part or in whole by special assessments,
6 the necessity therefor, and the equity of the assessments as pro-
7 vided in the assessment report. A majority of those constituting
8 the board of revision of assessments shall have power to determine
9 all complaints and objections submitted to it; and as to each im-
10 provement the board shall, after such hearing, approve, amend,
11 equalize or adjust the assessment reported in every detail and
12 shall report its findings as to the necessity for the improvements
13 and any amendment it directs in the assessments, the estimate of
14 benefit and allowance of damages, to the council.

Claims for Damages.

Sec. 47. An owner of a lot or of land bounding and abutting
2 upon a proposed improvement, claiming that he will sustain dam-
3 age by reason of the improvement, shall present such claim to the
4 board of revision of assessments within two weeks after the service
5 of notice or the completion of the publication hereinbefore pro-
6 vided. Such claim shall be in writing and shall set forth the
7 amount of damages claimed, with a general description of the
8 property with respect to which it is claimed the damage will ac-
9 crue, and shall be filed with the board of revision of assessments.
10 Any owner who fails so as to do shall be deemed to have waived
11 any such damages and shall be barred from filing a claim or in-
12 stituting any suit for damages. This provision shall apply to all
13 damage which will obviously result from the improvement, but
14 shall not deprive the owner of his right to recover damages aris-
15 ing, without his fault, from wilful or negligent acts of the city or
16 of its agents. If, subsequent to the filing of such claim, the owner
17 sells the property, or any part thereof, the right of damages, if
18 any, shall follow the ownership of the land without other trans-
19 ference of the claim. The board of revision of assessments shall
20 report to the council all such claims for damages filed with it.

Final Assessment.

Sec. 48. Whenever the board of revision of assessment shall

2 have made its final report to the council as to any improvement,
3 the council, if it determine that the improvement shall proceed,
4 shall pass an ordinance levying the assessment as reported by the
5 board of revision of assessments and directing that the improve-
6 ment proceed. In such ordinance it shall be sufficient to de-
7 scribe the lots and lands abutting upon the improvement and to
8 be assessed therefor, as all the lots and lands bounding and abut-
9 ting upon such improvement between and including the termini
10 of the improvement; and in describing lands which do not abut,
11 it shall be sufficient to describe the lots by their appropriate lot
12 numbers, and the lands by metes and bounds; and this rule of
13 description shall apply in all proceedings in which lots and lands
14 are to be charged with special assessments.

Damages Assessed.

Sec. 49. At the time of the passage of the ordinance determin-
2 ing to proceed with the improvement as hereinbefore provided, the
3 council shall determine whether the claims for damages so filed
4 shall be allowed and paid or judicially inquired into either be-
5 fore or after the completion of the proposed improvement. If
6 it decides that the damages shall be assessed before commencing
7 the improvement, the city attorney shall file a petition in the cir-
8 cuit court of Harrison county, West Virginia, in order to have
9 such damages assessed, and the court shall thereupon empanel a
10 jury of freeholders and try the question of whether said property
11 shall be damaged, and if damaged, the amount of damages to
12 which the owner is entitled. When the council decides not to
13 have the damages assessed before the completion of the improve-
14 ment for which a claim for damages has been filed as hereinbe-
15 fore provided, the property owner may at any time within six
16 months after the completion of the improvement institute a suit
17 for such damages in a court of competent jurisdiction. No such suit
18 shall be maintained unless instituted within six months from the
19 time of the completion of the improvement.

Lands Un-allotted and not on Duplicate.

Sec. 50. When special assessments are levied by the per-
2 centage of tax value of the property assessed or by the foot front-
3 age of the property bounding and abutting upon the improvement,
4 and there are lands subject to such assessment which are not

5 assessed for taxation, the city manager shall fix, for the purpose
6 of such assessment, the value of such lots as they stand and of
7 such lands at such depths as the city manager considers a fair
8 average of the depth of lots in the neighborhood, so that it will
9 be a fair average of the assessed value of other lots, in the neigh-
10 borhood. Where lands are not subdivided into lots, but are
11 assessed for taxation, the city manager shall fix the value and the
12 depth in the same manner; but the above rule shall not apply
13 in making a special assessment according to benefits.

Included in Costs of Improvements.

Sec. 51. There shall be included in the cost of improvements
2 which may be assessed against properties benefited the cost and
3 expense of preliminary and other surveys, of making and pre-
4 paring plats, plans and specifications, and of printing and pub-
5 lishing notices, ordinances and resolutions required to be published
6 in relation thereto, the cost of supervising the work and the
7 damages caused to abutting property, as well as the cost of con-
8 struction; and there shall be excluded the cost of improving and
9 paving intersections of streets and alleys, the cost of land ac-
10 quired, and any amount which any street car or other railway
11 company may be required to contribute toward such work. Any
12 street car or other railway company occupying any street or alley
13 with its tracks or railway shall pay the cost of paving the space
14 between the rails and for two feet additional outside of each rail,
15 unless otherwise provided in the franchise of such street car or
16 other railway company which was granted prior to the passage
17 of this act, in which case the cost of that part of the pavement
18 or other improvement which can lawfully be charged against such
19 street or other railway company under its franchise shall be
20 assessed against and paid by it. The city shall pay out of the
21 general fund the cost of paving and improving the intersection
22 of streets and alleys, except such part thereof as may be assessed
23 against a street car or other railway company as above set forth.

Specifying Time of Payment.

Sec. 52. If the council shall decide to pay for the work
2 of improvement as the work progresses and upon completion of
3 the work, in the ordinance directing the assessments to be made
4 to cover the cost of such work or of any part thereof they shall

5 provide for the payment of the assessments at such time or times
6 as are necessary to provide funds for payment for the improve-
7 ments as the work progresses, and upon the completion of the
8 same. And in that event if any installments shall not be paid
9 when due, there shall be added interest thereon from the time due
10 and payable at the rate of six per centum per annum, and a penalty
11 of five per centum of the installment not paid when due.

What Included in Assessment.

Sec. 53. The work undertaken may include widening, grad-
2 ing, paving, curbing, sewerage and otherwise improving a
3 street or streets, alley or alleys, and a part of the cost of sewerage
4 the street or streets, alley or alleys, may properly be assessable under
5 this act upon property against which no assessment may be made
6 for the other improvements upon such street or streets, alley or
7 alleys, and in that event the cost charged against any lot or parcel
8 of land which may properly be charged with a part of the cost
9 of the entire improvement including the sewerage shall be in-
10 cluded in a single assessment.

Time of Payment When Bonds are Issued.

Sec. 54. If the council shall decide to provide funds for widen-
2 ing, grading, paving, improving, curbing or sewerage any
3 street or alley by the issue and sale of bonds in anticipation of the
4 collecting of the special assessments hereinbefore authorized, they
5 shall, in the ordinance making such special assessments, provide
6 that the same shall become due and payable in equal annual in-
7 stallments not to exceed ten in number, and each installment shall
8 bear interest at the rate of six per centum per annum from the
9 date of the final assessment, and there shall be added to and col-
10 lected with each installment not paid at maturity a penalty of
11 five per centum of the amount of such installment: *Provided,*
12 *however,* that any property owner and any street car or other
13 railway company against whose property an assessment shall have
14 been made shall have the right at any time after such assessment
15 shall have been docketed, or shall have been certified
16 to the person authorized to collect the same at maturity, to anti-
17 cipate any or all of such assessments and to pay the same at the
18 face amount with interest to the time of payment.

Lien for Special Assessments.

Sec. 55. The special assessments, together with the interest
2 and penalties aforesaid to pay for widening, grading, paving, curb-
3 ing, sewerage or any of said improvements, shall be a lien upon
4 the lots or fractional parts of lots or lands, (and in the case of a
5 street car or other railway company upon its tracks and fran-
6 chises, for the distance of said improvement) from the date
7 thereof, and said lien shall have priority over all other liens ex-
8 cept those for taxes due to the state, and shall be on a parity with
9 the taxes and assessments due the city; *provided, however*, such
10 assessments shall, after six months from the date of the acceptance
11 of said work, cease to constitute liens against said property as
12 against creditors of the owners thereof, or purchasers thereof for
13 value without actual notice of such liens, unless within said period
14 of six months a statement of said liens shall be filed for record in
15 the office of the clerk of the county court of Harrison county. Said
16 statement shall be made up and certified before the expiration of
17 of said six months period by the city clerk to the clerk of said
18 county court as to all assessments which shall remain unpaid four
19 months after the acceptance of the work, and said statement shall
20 describe the assessments generally as for street improvements,
21 give the names of the property owners assessed, the location of
22 the real estate affected, date of acceptance of the work by the
23 city, and the amount of each assessment; and it shall be a sufficient
24 description of the location of said real estate to describe it as
25 abutting upon the particular street or alley so improved included
26 between the termini of the improvement, or by the description
27 whereby said real estate appears upon the land books of Harrison
28 county. The county clerk shall record said statement in the trust
29 deed books in his office, and index the same in the name of the
30 city and also in the name of each person against whose property
31 said assessments appear therein, and for such recordation the
32 county clerk shall be paid at the same rate for each one hundred
33 words as provided by law for recording deeds of trust.

Docketing and Collecting Assessments.

Sec. 56. The city clerk shall also, so soon as such assessments
2 have been made by the council, enter the same of record in the
3 "municipal assessment docket", and when due make out bills
4 therefor against the property owners assessed, and certify the

5 same for collection to the city collector or other person authorized
6 to collect taxes for the city, who shall thereupon be charged with
7 said accounts. And upon default being made in the payment of
8 any assessment or installment thereof aforesaid, the same shall be
9 immediately reported to the council, and the council shall forth-
10 with refer the same to such officer as it may deem expedient for
11 collection; and payment of said delinquent assessments or in-
12 stallments, with the interest and penalties aforesaid, may be en-
13 forced in all respects as provided for the collection of city taxes,
14 or the lien aforesaid may be enforced by a suit in equity in the
15 name of the city in any court having jurisdiction thereof, and
16 the said delinquent assessments or any installment thereof, may
17 be collected from the person against whom the same were assessed
18 by action at law before any court or a justice of the peace having
19 jurisdiction thereof. In addition to all other remedies for the
20 collection of said delinquent assessments or installments, the city
21 may cause a certified copy of the assessment to be filed in the
22 office of the clerk of the circuit court of Harrison county, West
23 Virginia, and after ten days' notice by personal service, or after
24 two weeks' publication of a notice in all cases in which personal
25 service cannot be had upon the owner of any lot on which said
26 assessment constitutes a lien, said court shall, on motion of the
27 city of Shinnston, order the sale of the lots or property on which
28 the assessment or installment constitutes a lien to be made by the
29 city treasurer at the front door of the court house of Harrison
30 county on such terms as to payment as the court in its order may
31 prescribe. The city treasurer shall advertise the time, terms and
32 place of such sale by notice published once a week for two suc-
33 cessive weeks in some newspaper published and of general cir-
34 culation in the city of Shinnston, and by posting a copy of such
35 notice at the front door of the council chamber for at least two
36 weeks before the day fixed for such sale.

37 The city treasurer shall report any sale made hereunder to said
38 court for confirmation, and upon the confirmation of the sale, the
39 court shall authorize the city treasurer to execute and deliver to
40 the purchaser a deed for the property so sold, which shall divest
41 all the estate and interest therein of the former owner and of
42 all persons claiming under him and of all lienholders against the
43 property, and vest all such estate and interest in the purchaser
44 thereof. Out of the proceeds of any such sale the court shall allow

45 to the city treasurer all costs and expenses incurred in making
46 the sale and reasonable compensation for his services and a fee
47 of five dollars for making the deed to the purchaser, and shall
48 order to be paid out of the proceeds, if sufficient, all unpaid assess-
49 ments or installments of assessments against said property thereto-
50 fore made by the city of Shinnston, with all accrued interest
51 thereon and costs and expenses of the proceeding, including an at-
52 torney's fee of ten dollars. The residue of the purchase money
53 shall be paid to the former owner of the lot, his personal represen-
54 tative, heirs or assigns.

55 Before making any sale of real estate in any such proceeding,
56 the city treasurer shall execute a bond in like manner as required
57 by the laws of the state of West Virginia of a special commis-
58 sioner.

Proceeding With Work.

Sec. 57. In any case where the city council has decided to pay
2 for any such improvements out of funds in the city treasury not
3 otherwise appropriated in anticipation of the collection of special
4 assessments, they shall, in the same or a supplemental ordinance
5 or resolution, direct the city manager to proceed with said work
6 either directly by the purchase of material and employment of
7 labor, or by advertising for bids and proposals for furnishing
8 material and for making said improvements. If the work shall
9 be done on contract the city manager whenever in his judgment
10 it will be to the advantage of the city shall divide the work into
11 allotments or parts and advertise for contracts for the work in
12 such allotments or parts, and for the work as a whole, and the city
13 council and city manager shall, in awarding the contracts, adopt
14 the method which shall in their judgment be most advantageous
15 to the city. In any case in which council has decided to procure
16 money for paying for such work or improvement by the issuance
17 and sale of bonds of the city in anticipation of the collection of
18 special assessments as in this act authorized, the city council shall,
19 as soon as practicable after the issuance of such bonds shall have
20 been authorized by a vote of the electors of the city as in this
21 act provided, by resolution direct the city manager to proceed to
22 make said improvements in the same manner as in this section
23 provided for making improvements to be paid for out of moneys
24 in the treasury not otherwise appropriated.

25 The notice for bids or proposals for street improvements or the
26 construction of sewers, shall be published for at least fifteen days
27 in two daily newspapers. Said notice shall state where and how
28 the bids or proposals shall be made; and whether so stated in the
29 notice or not, the city may reject any and all bids for such pro-
30 posed work, being advertising for bids on the work, the city shall
31 approve and adopt plans and specifications therefor, and the ad-
32 vertisement for bids, and the contract awarded thereon, shall refer
33 to such plans and specifications.

Application of Assessments.

Sec. 58. Where provision is made to pay for any work or im-
2 provement out of funds in the treasury not otherwise appropriated
3 in anticipation of collection of special assessments, all such assess-
4 ments and interest and penalties collected thereon from the
5 specially benefited property owners, as well as all sums collected
6 from any street car or other railway company, shall be applied
7 and paid on account of the cost of such improvements (either to
8 the contractor, if he be unpaid, or to the city in re-payment of said
9 appropriation, or such part thereof as may have been paid by it
10 thereon out of other funds in the treasury) until the whole cost
11 or that part of the cost of such improvement and any interest paid
12 thereon, to pay which special assessments were made against
13 specially benefited property, has been paid in full. In any case
14 in which the council shall decide to issue and sell bonds in antici-
15 pation of the collection of said special assessments to pay for an
16 improvement, all such special assessments, interest and penalties
17 collected thereon shall be applied only to the payment of the inter-
18 est and principal of such bonds and to reimbursing the city to the
19 extent of any sum which it may have paid out of other funds upon
20 the interest and principal of such bonds which are to be paid out
21 of special assessments. Funds derived from special assessments
22 shall be paid out only for the purposes in this section authorized
23 and specified.

Sidewalks.

Sec. 59. The city council is hereby authorized and empowered to
2 cause to be put down a suitable sidewalk and curb of brick, stone or
3 other material along and for the footways and sidewalks of the pub-
4 lic street and alleys of said city, and to order and cause the grading,

5 laying or relaying or repair of sidewalks and gutters, of such
6 material and width as the council may determine; and to require
7 the owners or occupiers of the lot or lots or parts of lots facing
8 upon said streets and alleys to keep such sidewalks clean and in
9 good repair. The owners or occupiers of the lots or fractional
10 parts of lots abutting upon such streets and alleys shall not grade
11 or lay any such sidewalk, curb or gutter, unless specially requested
12 to do so by resolution adopted by the council, and then only of the
13 kind prescribed by the council; but the city may lay such sidewalk,
14 curb or gutter and grade therefor, or may let said work by contract,
15 and in either case the total cost of said work shall be charged upon
16 and assessed against the lots or fractional parts of lots abutting
17 upon the streets and alleys so improved, or specially benefited by
18 said work, in proportion to the number of feet frontage thereon
19 of each such lot or part of lot, and shall be and remain a lien
20 thereon from the date of the acceptance of the work by the city,
21 and said lien shall have priority over all other liens except those
22 for taxes due to the state, and shall be on a parity with the taxes
23 and assessments due the city, and shall bear interest from the
24 date of acceptance of the work by the city, or from the completion
25 thereof when done by the city, and shall become due and payable
26 when declared final by the council; and to each such assessment re-
27 maining unpaid thirty days after maturity there shall be added and
28 collected by the city a penalty of five per centum of the amount of
29 such assessment in addition to the interest. The amount so
30 assessed against any lot, or fractional part of lot, together with
31 the interest and penalty aforesaid, shall also be a debt against the
32 owner of such lot or part of lot. Immediately upon completion
33 of the work, if done by the city, or upon acceptance of the work
34 if done by contract, the council shall cause the city clerk to serve
35 a notice upon the owners of each lot or fractional part of lots over
36 which such sidewalks are graded, paved, curbed or laid, shall
37 describe such lot or part of lot with reasonable certainty suf-
38 ficient to identify the same, and shall also state the number of
39 feet over each lot or part of lot so graded, curbed or laid with
40 sidewalk, together with the amount assessed against each owner;
41 which notice shall be served as provided for the service of notice
42 of street assessments in this act and shall cite all said owners to
43 appear before the council at a regular meeting to be held within
44 fifteen days following the service of publication thereof and show

45 cause, if any they can, why such assessments should not become
46 final. Protests against said assessments shall be heard and de-
47 termined and said assessments shall become final and be recorded
48 by the city clerk, certified for collection, and the collection thereof
49 enforced against the property assessed and against the owner
50 thereof, and a certificate of said assessments certified to the clerk
51 of the county court for recordation, and recorded in all respects in
52 the same manner and with the same legal effect as provided in the
53 case of assessments for street paving or other local improvements in
54 this act. And all of the assessments, interest and penalties thereon
55 so collected from the abutting lot owners on account of the grading
56 and curbing and laying of said sidewalks shall be applied to the
57 cost of making the improvement for which said assessments were
58 laid, and to no other purpose.

Supplementary Assessments and Rebates.

Sec. 60. If in any case any special assessment shall be illegal
2 or void, either in whole or in part, a new assessment may be made in
3 the same manner as nearly as may be as other special assessments
4 are authorized by this act to be made to pay for the improvements,
5 the former assessment for which was illegal or void. Upon the
6 completion of any improvement the city manager shall rebate to
7 the then owner of the property which shall have been assessed to
8 pay for such improvement any surplus or excess remaining unex-
9 pended for the purpose for which such assessment was made. In
10 the event of there being a deficit in the fund provided for the
11 making of any such improvement, the city manager shall report to
12 the council a supplementary assessment within the limitations in
13 this act provided, which supplementary assessment shall be made
14 by ordinance of the council and certified and collected in the man-
15 ner provided in the original assessment for the collection of the
16 same.

Limitation of Assessments.

Sec. 61. No assessment herein authorized against or upon any
2 property for any local improvement shall, in the first instance
3 exceed in amount twenty-five per centum of the value of such
4 property after the improvement is completed. And all assess-
5 ments for local improvements which may be made against any
6 property during the fifteen years next ensuing after the first

7 assessment shall have been made, including the first assessment,
8 shall not exceed at any time in the aggregate one-third of the
9 value of such property. And during any succeeding period of
10 fifteen years the total assessments against any property for im-
11 provements shall not exceed in the aggregate one-third of the
12 value of the property together with the improvements.

Release of Liens.

Sec. 62. Whenever any assessments for sidewalks, street
2 paving, grading, sewerage or other improvements hereinabove
3 provided for shall have been paid in full, the city treasurer shall
4 execute on behalf of the city and deliver to the party paying the
5 same a proper release of the lien of such assessment, which re-
6 lease shall be substantially in the form prescribed by section two
7 of chapter seventy-six of the 1913 Code of this state, (serial section
8 number three thousand eight hundred and fifty-nine) for the re-
9 lease of the lien of judgments and decrees.

Remedies Saved.

Sec. 63. The remedies herein provided for the enforcement
2 of any power, right or authority by this charter conferred upon
3 said city of Shinnston shall not be exclusive or in derogation of
4 any other right or remedy which it does or shall possess under
5 any law or under the constitution of the state to enforce in any
6 court of law or equity any such power, right or authority.

Issuing Bonds.

Sec. 64. If and when the city council shall have decided to
2 carry on any work of improvement and shall have assessed all or
3 any part of the cost thereof against property specially benefited,
4 and provided that such assessments shall be paid in equal annual
5 installments, it is hereby authorized to issue and sell its bonds
6 in order to provide funds for widening, grading, paving, curbing,
7 sewerage, or otherwise improving the streets and alleys of the city
8 in anticipation of the collection of the special assessments made
9 against the property which will be specially benefited by such
10 work. The bonds shall be for such an amount as will suffice to
11 pay the entire cost of such improvements, or the entire amount
12 which is to be assessed against property specially benefited, in-
13 cluding any amount which a street or other railway company

14 occupying any of the streets with its tracks shall be required to
15 pay. Such bonds shall be payable in equal annual installments
16 and shall bear interest at not to exceed the rate of six per centum
17 per annum, payable annually; the number of annual installments
18 shall be the same as the number of installments in which the
19 special assessments against property specially benefitted have been
20 ordered to be paid, and the bonds maturing each year shall be ap-
21 proximately equal in amount to the aggregate amount of the in-
22 stallments becoming payable on assessments each year. In the
23 issuance and sale of such bonds the city shall be governed by all
24 restrictions and limitations of the constitution of this state, and
25 in so far as not in conflict with the provisions of this act, by the
26 restrictions and limitations of the laws of the state, with respect
27 to the issuance and sale of bonds. All assessments with the interest
28 thereon, and all penalties collected thereon, in anticipation of the
29 collection of which bonds shall have been issued as herein pro-
30 vided, shall be applied only to the payment of the interest on the
31 bonds, and the principal thereof, as they severally mature, and to
32 that end they shall be paid to the city treasurer to be credited
33 to the sinking fund of the city and shall be invested to the best
34 advantage of the city in the manner provided by law. The
35 city shall not, by the sale of bonds or otherwise, become
36 indebted in amounts in the aggregate to exceed five per
37 centum of the value of the taxable property in the city.
38 The city shall not make, issue and sell is bonds without at
39 the same time providing for the levying of a certain annual tax
40 sufficient to pay annually the interest on such bonds and the prin-
41 cipal thereof within and not exceeding the time fixed for the
42 maturing of said bonds, if said bonds are issued against assess-
43 ments for local improvements to be liquidated by such assessments;
44 and within not to exceed thirty-four years if issued for any other
45 purpose. All of the assessments, interest and penalties collected
46 under the provisions of this section shall be applied annually to the
47 payment of the interest of any debt created for a local improvement
48 and upon the principal within and not exceeding the time in
49 which the same shall mature, and in the event that the assessments,
50 interest and penalties so collected shall not amount to a sum suf-
51 ficient to pay such annual interest and discharge the bonds at
52 maturity, then only shall the council provide for the collection of
53 so much of the authorized levy as will pay the residue of the inter-

54 est on such bonds and the residue of the principal upon the
55 maturity thereof.

Bond Election.

Sec. 65. No bonds shall be issued under the provisions of this
2 until and unless the question of issuing such bonds shall have first
3 been submitted to the vote of the people of the city and shall have
4 received three-fifths of all of the votes cast at said election for or
5 against the same. When the council shall have made provision for
6 paying for any work of improvement authorized in this act out of
7 funds derived from the sale of bonds in anticipation of the collec-
8 tion of special assessments against property specially benefited and
9 shall have made such assessments in the manner provided in this
10 act, it shall cause to be held a special election, at which shall be
11 submitted to the vote of the people the question of issuing said
12 bonds. The ordinance providing for the election need not specify
13 in detail the location of the improvements contemplated or the cost
14 thereof, or the amount of the special assessments made, and not-
15 withstanding the provisions of sections two, three and six of
16 chapter forty-seven-a of the Code of 1916, it shall be a suf-
17 ficient description of the purposes for which said election is to
18 be held if the ordinance directing the same shall recite that it
19 is to authorize the council to issue bonds for the purpose of widen-
20 ing, grading, paving, curbing, sewerage, or otherwise improving
21 the streets and alleys of the city.

22 Provision may be made in the same ordinance authorizing the
23 issuing of bonds as in this section above provided, or the issuing
24 of bonds to provide funds for any other municipal improvement.

25 Any bonds authorized to be issued to raise funds for improving,
26 extending, adding to, or replacing the water works plant shall be
27 issued and sold as provided by law, and the proceeds of any bonds
28 issued under the authority of this act shall be expended only for the
29 purposes for which the creation of the indebtedness and issuing of
30-31 said bonds were authorized.

32 The provisions of chapter forty-seven-a of the code, edition
33 1916, concerning bond elections, together with any amendments
34 thereof, shall, so far as they are not in conflict with the provisions
35 of this section, apply to and control all bond elections called or
36 held under the provisions of this act.

Assessment Certificates.

Sec. 66. Whenever the city council shall have decided to carry on any work of improvements upon any street or alley in the city and shall have assessed the property that will be specially benefited by the construction of the work and made provision that the assessment shall be paid in annual installments as in this act authorized, they may, in order to procure funds to pay for such work, issue and sell to the contractor or persons doing the work, or to any other persons, assessment certificates for the amount of the several assessments against the respective property owners. Such certificates shall bear interest at a rate not to exceed six per centum per annum, payable annually, and shall mature and become payable in the same manner and at the same times that the assessments are payable. The city in negotiating and selling such certificates shall not be held liable as endorser or guarantor or in any other way for the payment thereof, except upon a resolution entered of record by the council assuming such liability before such sale. Assessment certificates shall be paid by the owners of the lots or lands assessed for the cost of such improvements. The amount specified in each assessment certificate shall be a lien as in this act provided in the hands of the holder thereof upon the lands, lot or part of lot so assessed, and shall also be a debt against the owner of such real estate and shall draw interest at the rate and from the date specified in the certificate. The payment of the sums represented by assessment certificates may be enforced by the holder in his own name, or in the name of the city, in the manner provided in this act for the collection of assessments, and as provided herein or by general laws for the enforcement of liens.

All assessment certificates which may be issued under the provisions of this act shall be made payable at the office of the city treasurer who shall receive payment thereof when due if tendered, and the interest thereon from the date of such payments shall cease. The treasurer shall keep a separate and special account of all moneys received by him upon assessment certificates and shall hold the same in trust for the owner who thereafter shall deliver the assessment certificates to him for cancellation if paid in full, or to have credited thereon the amount paid if not paid in full; but the owner of assessment certificates shall not be entitled

39 to interest on the sums represented by the same after the date
40 of payment thereof to the treasurer. If and when the whole
41 amount of any assessment certificate shall have been paid to the
42 treasurer, or the treasurer shall have knowledge that the same
43 has been paid in full to the owner, he shall, when required by
44 the land-owner, execute a release of the lien of assessment and
45 certificates in the manner as in this act provided for releasing
46 liens of assessments for which no certificates may have been issued.
47 If the city shall have no treasurer, any other officer designated by
48 the council by resolution or ordinance shall discharge the duties
49 required of the treasurer in this act.

50 Assessment certificates shall be in such form and of such tenor
51 as the council shall by resolution provide and they shall have at-
52 tached thereto interest coupons for the annual interest thereon.

53 At any time before a sale of the assessment certificates the
54 property owner shall have the right, if he elects so to do, to antici-
55 pate and pay the full amount of the assessment with interest
56 to date of payment, and thereupon the assessment certificates
57 against his property shall be cancelled and the lien of the assess-
58 ment thereon released as in the manner provided in this act.

59 The proportion of the cost of any such improvement to be paid
60 by any street car or other railway company shall be due and pay-
61 able and shall be paid upon the completion of the work and if not
62 paid when due the same shall be collected with interest thereon at
63 the rate of six per centum per annum from the date payable, and
64 in addition thereto a penalty of five per centum of the amount
65 payable shall be collected.

Publication.

Sec. 67. All ordinances, resolutions and notices of every
2 kind, the publication of which is required by any provision of
3 this act, shall be published for the period of time in each par-
4 ticular instance specified, but in all cases in which the time the
5 publication is to run is not specially provided, such publication
6 shall be once a week for two consecutive weeks in a newspaper
7-20 published in Harrison county.

21 Every such publication or posting shall be held and deemed to be
22 equivalent to personal service in every case. The certificate of
23 the printer or manager of the paper publishing any notice herein
24 required, or the affidavit of the party posting any notice that

25 may be served by posting, shall be accepted as *prima facie* evi-
26 dence of the publication of the notice. Such certificate and
27 affidavit shall be filed with the city clerk and preserved as a part
28 of the records of his office.

29 The rates charged for the publication of any notice herein
30 required to be given shall not exceed the rate prescribed by the
31 laws of the state of West Virginia for the publication of notices
32 required to be published in suits in chancery in the circuit courts
33 of the state.

34 It shall not be necessary to publish any resolution, order,
35 assessment, or ordinance providing for carrying on any work of
36 improvement of any street, alley or sidewalk, in any case wherein
37 provision is made in this act for serving notice upon the parties to
38 be charged with the cost of, or directly interested in such im-
39 provement.

Emergency Measures.

Sec. 68. Emergency measures may be passed at the same meet-
2 ing of council at which they are introduced. An emergency
3 measure within the meaning of this act is an ordinance or reso-
4 lution providing for the immediate preservation of public peace,
5 property, health or the safety of the community, or for the usual
6 daily operation of a municipal department, in which the emergency
7 is set forth in the preamble thereof. Ordinances and resolutions
8 providing for improving streets and alleys, making assessments,
9 appropriating moneys, and all matters incident to such improve-
10 ments may be passed as emergency measures. No ordinance or
11 measure making a grant, renewal or extension of a franchise or
12 other special privilege, or regulating the rate to be charged for its
13 service by a public utility, or creating any office or employment,
14 shall ever be passed as an emergency measure.

Removal of Elective Officers.

Sec. 69. Any elective officer may be removed from office at any
2 time for any cause of removal of county officers, and in the man-
3 ner provided for making such removal by law.

Succeeding to Duties of Officers.

Sec. 70. The duties in this act or by any other law provided
2 to be discharged by any officer elected or appointed under the pro-

3 visions of this act shall be discharged and performed by any officer
4 under whatever title who shall hereafter succeed any officer or
5 office herein created and be charged with the performance of the
6 duties and obligations entrusted to and imposed upon the holder
7 of any office herein created.

Not to Be Published in Code of Laws.

Sec. 71. There shall not be included or published in the code of
2 municipal laws any ordinance or resolution providing for any
3 public improvement, making assessments, appropriating moneys, or
4 anything incident thereto, or any traffic ordinances or regulations
5 or any other ordinance of a temporary character and not of general
6 interest, but all such ordinances shall be recorded in the ordinance
7 books as herein provided, and all traffic ordinances and regulations
8 shall be published in pamphlet form convenient for general distri-
9 bution and furnished to any person requesting a copy of the same.

Act Construed.

Sec. 72. All provisions contained in this act in respect to
2 making improvements shall be liberally construed by the council
3 and by the courts. Immaterial and technical objections shall be
4 disregarded; all special benefits ascertained and not contested be-
5 fore the board of assessment review within ten days from the
6 ascertainment thereof shall be deemed conclusive, and in any con-
7 tested case the ascertainment by said board of special benefits shall
8 be conclusive. The purpose of the provisions of the act referred
9 to in this section is to enable the public to make needed and essen-
10 tial public improvements and in all cases where feasible the act
11 shall be construed in furtherance and aid of that general purpose.

Sec. 73. The city of Shinnston is hereby authorized to issue
2 and sell bonds of said city for the purpose of buying and building
3 electric light plants, water-works, gas lines and fields, gas pro-
4 ducer plants, and distribution lines and mains, public parks and
5 play grounds and municipal buildings, and to issue and sell bonds
6 of said city for the purpose of providing for grading, paving and
7 otherwise improving the streets and alleys of said city, and of
8 constructing sewers and sewer systems and sewage disposal plants
9 for said city, but in no event shall the aggregate indebtedness of
10 said city bonded, funded or otherwise exceed five percentum of the
11 assessed value of the property within said city, and *provided*,

12 *further*, that in no event shall any bonds be issued by said city
13 unless and until the question of the issuance thereof shall be
14 submitted to the legal voters thereof and be authorized by a
15 three-fifths vote in favor thereof, and *provided, further*, that
16 no bonds shall be issued unless provision be made for sufficient
17 levy to pay the interest and principal thereof as the same shall
18 become due and payable according to the tenor of said bonds;
19 said bonds may be serial bonds, and no bonds shall be issued for
20 a longer period than thirty years, and the submission and all
21 orders and ordinances in reference thereto shall be under and ac-
22 cording to the provisions of chapter forty-seven-a of the code of
23 one thousand nine hundred and sixteen, as amended now or as
24 hereafter amended, insofar as the same may be applicable.

Referendum.

Sec. 74. This act shall not become effective unless the same is
2 adopted by a majority of the voters of said city as hereinafter
2-a provided within sixty days prior to the first Tuesday of
2-b March one thousand nine hundred and twenty-two, it shall be the
3 duty of the mayor of the city of Shinnston, now in office or his
4 successor, by proper proclamation, to call an election by the
5 qualified voters of said city to pass upon the acceptance or re-
6 jection of this charter, which proclamation shall be published in
7 two successive weekly issues of the Shinnston News, prior to
8 such election. It shall be the duty of the council of said city to
9 appoint the election commissioners, challengers and clerks to con-
10 duct said election, to provide ballots, poll books and other things
11 needed for the proper conduct of said election; and said election
12 shall be conducted at the several voting places of said city as
13 heretofore established.

14 The ballots used in said election shall have printed thereon
15 substantially the following: "Election by the voters of the city of
16 Shinnston in Harrison county, West Virginia, on the day
17 of one thousand nine hundred and twenty-one, on the
18 question of adopting or rejecting the city charter as enacted by
19 the legislature of West Virginia at the one thousand nine hun-
20 dred and twenty-one regular session therof."

21 [] For the adoption of said charter.

22 [] Against the adoption of said charter.

23 And the general laws of the state pertaining to elections in so
24 far as applicable shall govern the said election.

25 On the third day after the said election it shall be the duty of
26 the council of said city to canvass the returns of said election
27 and ascertain and declare the result thereof. If a majority of the
28 votes so cast at said election are for the adoption of this charter
29 then certificate thereof shall be published and entered in the min-
30 ute book of said council, and publication thereof be made in
31 the next succeeding issue of said newspaper. And the officers
32 for said city to be elected on the first Tuesday in March, one
35 as of April first, one thousand nine hundred and twenty-two,
36 from and after which time all the provisions of this act shall
37 apply and obtain in said city, *provided, however*, that the four
38 councilmen elected at the election held in said city during the
39 month of April, one thousand nine hundred and twenty-one, for
33 thousand nine hundred and twenty-two, shall be elected under
40 the term of two years shall continue in office under this charter
41 until April first, one thousand nine hundred and twenty-three,
42 unless disqualified for any lawful cause, and *provided, further*,
43 that at the election provided to be held on the first Tuesday of
44 March, one thousand nine hundred and twenty-two, but one
34 and according to the provisions of this act and shall take office
45 councilman shall be elected from each of the several wards of
46 said city unless there be additional vacancies.

House Bill No. 539

(House Bill No. 539—Mr. McClintic, of Kanawha.)

AN ACT to amend and re-enact section fifty-one and section fifty-two of the acts of the legislature, regular session one thousand nine hundred and nineteen, entitled "An act to incorporate the town of South Charleston, in Kanawha county, West Virginia, fixing its corporate limits and prescribing and defining the powers and duties of said town and the officers of same."

Be it enacted by the Legislature of West Virginia:

That section fifty-one, and section fifty-two, of chapter one, of the acts of the legislature at its regular session, one thousand nine hundred and nineteen, be amended and re-enacted as follows:

Section 51. (a) Said town of South Charleston is hereby authorized to issue its bonds for the purpose of providing for the cost of grading, paving and curbing, or macadamizing, or otherwise permanently improving the avenues, streets, roads and alleys of the said town, in anticipation of special assessment to be made upon the property abutting upon the avenues, streets, roads and alleys so improved. Said bonds may be in such an amount as shall be sufficient to pay the entire costs and expenses of said improvements for which such special assessments are to be levied; and the said town is authorized to sell said bonds, but not below the par value thereof, and said bonds shall bear interest not to exceed six per cent per annum, payable annually; and in the issuance and sale of said bonds the said town shall be governed by the restriction and limitations of the constitution of and the laws of this state, relating to the issuance and sales of bonds, so far as such state laws are not in conflict with the provisions of this act; and the assessments as provided for and required to be paid herein shall be applied to the liquidation of said bonds and interest thereon, and if, by reason of the penalties collected with the delinquent assessments, there be any balance after the payment of the bonds and all accrued interest and costs, it shall be turned into the town treasury to the credit of the interest and sinking fund of the town.

But said town shall not become indebted in any manner or for any purpose to an amount including existing indebtedness, in the aggregate exceeding two and one-half per centum on the value of all taxable property therein, as provided in chapter fifty-one of the acts of the legislature of one thousand nine hundred and five, except for the purpose of grading, curbing, paving, macadamizing or otherwise permanently improving the avenues, streets, roads, and alleys therein, or constructing sewers therein or elsewhere, or acquiring or taking land or easement therein for street and sewer purposes, as provided for in this act, and for that purpose in estimating "existing indebtedness," special assessment bonds representing the cost of paving or other permanent improvements of streets, roads or alleys, or the construction of sewers, or acquiring or taking land for such purposes, and the cost of which is assessed against the abutting property on such avenues, streets, roads or alleys, or specially benefitted property adjacent thereto, or in such owner, shall not be included; and likewise the

41 amount in any sinking fund, or the amount invested therefor as
42 provided by law, for the payment of outstanding bonds, shall not
43 be included in the estimate of existing indebtedness; *provided*,
44 that the aggregate of its debt of every kind whatsoever, including
45 such special street permanent improvement bonds, or sewer
46 bonds, shall not exceed five per centum of the value of all taxable
47 property therein.

48 (b) And it shall be the duty of the council to immediately
49 certify such assessments to the treasurer for collection, as herein
50 provided; and for the purpose of facilitating the collection of
51 such assessments against the properties herein, the coun-
52 cil may issue assessment certificate, with interest coupons
53 attached thereto, to be delivered to and charged against
54 the town treasurer who shall collect the same, and as
55 such certificate and coupons are paid he shall deliver
56 the cancelled certificates to the party paying the same.
57 A copy of said order shall be certified by the town
58 recorder to the clerk of the county court of Kanawha
59 county, who is hereby required to index the same in
60 the proper trust deed book in the name of each person against
61 whose property assessments appear therein.

62 (c) The amounts so assessed against said abutting
63 lots and owners thereof, respectively, shall be paid in
64 ten payments, as follows, that is to say, one-tenth of
65 said amount, together with interest on the whole assess-
66 ment for one year, shall be paid into the town treas-
67 ury of the town before the first day of the follow-
68 ing May; and a like one-tenth part, together with interest for one
69 year upon the whole amount remaining unpaid before the first
70 day of May in each succeeding year thereafter, until all shall
71 have been paid. Each of said installments of one-tenth shall
72 bear interest of six per centum per annum payable annually from
73 the date of assessment, *provided, however*, that the owner of any
74 land, so assessed for the cost of paving of said avenue, street,
75 road or alley, shall have the right at any time to anticipate and
76 pay the whole of such unpaid assessment and interest thereon
77 until the first day of the following May, and have the lien against
78 the property so assessed released as hereinafter provided.

79 (d) If any such assessment shall not be paid when due, the
80 council shall cause to be enforced the payment of said assessment

81 and interest in all respects as herein provided for the collection
82 of taxes due the town; and said assessments shall be a lien upon
83 the property liable therefor the same as for taxes, which lien
84 may be enforced in the same manner as provided for the sale of
85 property for the payment of taxes and tax liens; and the liens
86 herein provided for shall have priority over all other liens ex-
87 cept those for taxes due the state and the county, and shall be
88 on a parity with taxes and assessments for the town.

89 (e) When all of said assessments for grading, paving and
90 curbing, or macadamizing, or other permanent improvements
91 shall be paid in full to the treasurer, he shall deliver to the owner
92 of said property a release of the lien therefor, which may be re-
93 corded in the office of the clerk of the county court as other re-
94 leases of liens are recorded.

95 Under this plan for the payment of the cost of such permanent
96 improvements of avenues, streets, roads and alleys, and the con-
97 struction of sewers, the contractor (if the work is let by contract)
98 shall look only to the town for the payment of the work, and in
99 no sense to the abutting land owners.

100 (f) The council may contract for such paving (including
101 grading and curbing), or alter said improvements to be as,
102 aforesaid, and may acquire or take land for street purposes
103 as aforesaid, and may, if council so elects, stipulate
104 that the costs thereof, in whole or in part, shall be
105 paid in installments by the abutting property owners,
106 as provided in (a) of section fifty so specially benefit-
107 ed property owners, as provided in (g)g of said section in five
107-a equal installments, to be evidenced by paving certificates
108 issued therefor, payable in thirty days and in two,
109 three and four years, respectively, after the date of
110 their issue, and shall bear interest not to exceed six
111 per centum per annum, payable annually, or if the coun-
112 cil deems best, in ten equal installments, to be evi-
113 denced by paving certificates issued therefor, payable in
114 thirty days, and one, two, three, four, five, six, seven,
115 eight and nine years, respectively, after the date of their issue,
116 and shall bear interest not to exceed six per centum per annum,
117 payable annually, which certificates to be signed by the mayor
118 and recorder, or other person or persons designated of record by
119 the council, may be sold, either to the contractor doing the pav-

120 ing or other of said improvements, or to any other person, and
121 which shall cover the entire cost of such work, or the cost of ac-
122 quiring or taking land for street purposes, including the cost
123 of surveys, notices and other things pertaining thereto; *provided*,
124 the town in negotiating and selling such certificates, shall not be
125 held as guarantor or in any way liable for payment
126 thereof. And the certificates covering the amount of
127 the assessment shall be paid by the owner of the land,
128 lot or fractional part thereof, so assessed for the cost of
129 said improvement on such street, road or alley so paved
130 or improved, of land acquired or taken, as aforesaid.
131 The amount specified in said assessment certificate shall
132 be a lien as aforesaid in the hands of the holder there-
133 of upon the lands, lot or part of lot assessed, and
134 shall also be a debt against the owner of such real estate, and
135 said amount shall draw interest from the date of said certificates,
136 payable annually, and the payment of the debt may be enforced as
137 provided by law for the collection of other debts, or such lien may
138 be enforced as provided in this act in the name of the holder of
139 such certificates.

140 After a contract has been made by the council to pave or other-
141 wise permanently improve any public road, avenue, street or alley
142 in said town under this act, and the paving or other permanent
143 improvements, or any stipulated part thereon, has been completed,
144 or the cost of acquiring or taking land, as aforesaid, has been as-
145 certained, the council shall assess the amount each lot shall bear
146 and shall make a written report, stating the number of lots and
147 the blocks or tracts of land when not laid off into lots and the
148 names of the owners of such lots or land when known, and the
149 amount assessed thereon; and when the said council approves said
150 report, or modifies it and then approves it, a copy of said report,
151 so adopted by the council, when certified to by the town recorder
152 of said town, may be recorded in the clerk's office of the county
153 court of Kanawha county in a trust deed book, and shall be a con-
154 tinuing tax lien upon the lot or land against which the assessment
155 is made until the certificates as aforesaid are paid, except other-
156 wise provided in section sixty-one of this act, and the recorder
157 shall index the same in the name of each lot or land owner men-
158 tioned therein."

Sec. 52. Payment is to be made by all land owners on either

2 side of such portion of any avenue, street, road or alley so paved
3 or improved in such portion of the total cost (less the portion, if
4 any, chargeable to the street or other railway company) as the
5 frontage in feet of his abutting land bears to the total frontage
6 of all the land so abutting on said avenue, street, road or alley or
7 portion thereof paved or improved as aforesaid; but the cost of
8 such paving or improvement on said avenue, street, road or alley
9 shall not include any portion or amount paid for the paving or
10 improvements of intersections of avenues, streets or alleys, unless
11 upon petition in writing of not less than one-half in lineal feet of
12 property, abutting upon said avenue, street, road or alley so im-
13 proved.

14 When the paving or improvement of any such avenue, street,
15 road or alley, or portion thereof, shall have been completed, under
16 the contract awarded therefor, the council shall cause the several
17 frontages abutting thereon to be measured, and cause the assess-
18 ment upon each owner of land abutting thereon to be calculated,
19 showing the proper amount to be determined as provided in the
20 foregoing plan; and the said council shall enter the same, to-
21 gether with the description of the lots of land as to location, front-
22 age and ownership, upon its record, and direct on its records that
23 such owners and lots be assessed and chargeable with the amounts
24 so ascertained to be borne by them, respectively, and when so ap-
25 proved and entered of record the same shall be and constitute an
26 assessment against said owners and lots for such respective
27 amounts.

House Bill No. 504

(House Bill No. 504—Mr. McClintic, of Kanawha.)

AN ACT to amend and re-enact sections thirty-three and thirty-six
of chapter one hundred and eighteen of the acts of one thousand
nine hundred and seventeen, relating to the powers and duties
of the common council of the city of St. Albans relative to special
assessments for side walks and paving for and within said city
of St. Albans.

Be it enacted by the Legislature of West Virginia:

That sections thirty-three and thirty-six of the charter of the city

of St. Albans be amended and re-enacted to read as follows:

Section 33. Upon the petition in writing of the owners of not
2 less than one-half in lineal feet of the property abutting upon any
3 any avenue, street, road or alley or part thereof, asking the city
4 grade and put down a sidewalk of brick, stone, concrete or other
• 5 suitable material and offering in said petition to have their prop-
6 erty so abutting as aforesaid assessed proportionately to pay for
7 the entire cost of said sidewalk, including the grading, super-
8 vision and inspection as petitioned for, the council may order such
9 work done as heretofore provided in section thirty-two and the
10 total cost thereof be charged to and paid by the owners of the
11 abutting property as hereinbefore provided.

Sec. 36. Upon the petition in writing of the owners of not
2 less than one-half in lineal feet of the property abutting upon
3 any avenue, street, road or alley or part thereof, asking the city
4 to grade, curb and pave, with suitable material, said avenue,
5 street, road or alley or to construct a sewer in said avenue, street,
6 road or alley and offering in said petition to have the property so
7 abutting as aforesaid assessed to pay for the entire cost of said
8 improvements including the grading, the cost of intersections,
9 engineering, supervision and inspection as petitioned for, the
10 council may order such work done as heretofore provided in section
11 thirty-four, and the total cost thereof be charged to and paid by
12 the owners of the abutting property. The council may contract
13 for such paving or sewer construction or other said improvements,
14 to be done as aforesaid, and may acquire or take land for street
15 purposes, as aforesaid; and may if the council so elect, stipulate
16 that the costs thereof, in whole or in part, shall be paid by the
17 abutting property owners, in five equal installments to be evi-
18 denced by five paving certificates issued therefor, payable in
19 thirty days, and one, two, three and four years, respectively,
20 after the date of their issue, with the provision that if default be
21 made in payment of any of said certificates when they become
22 due and payable then the whole amount of said assessment shall
23 become due and payable and the holder of the same may proceed
24 to collect, and said certificates shall bear interest not to exceed
25 six per centum per annum, payable annually, which certificates,
26 to be signed by the mayor and the clerk, or other person or per-
27 sons designated of record by the council, may be sold, either to the
28 contractor doing the paving or other said improvements, or to

29 any other person, and which shall cover the entire cost of such
30 work, or the cost of acquiring or taking land for street purposes,
31 including the cost of surveys, notices and other things pertain-
32 ing thereto; *provided*, the city, in negotiating and selling such
33 certificates, shall not be held as guarantor or in any way liable for
34 payment thereof, except upon the direct action of the council
35 as expressed by resolution of record before such sale. And the
36 certificates covering the amount of the assessment shall be paid
37 by the owner of the land, lot or fractional part thereof, so assessed
38 for the cost of said improvements on such avenue, street, road
39 or alley, or part thereof, so paved or improved, or land acquired
40 or taken, as aforesaid. The amount specified in said assess-
41 ment certificate shall be a lien as aforesaid in the hands of the
42 holder thereof upon the lands, lot or part of lot so assessed, and
43 shall also be a debt against the owner of such real estate, and
44 said amount shall draw interest from the date of said certificates,
45 payable annually; and the payment of the debt may be enforced
46 as provided by law for the collection of other debts, or such lien
47 may be enforced as provided in this act in the name of the holder
48 of such certificates.

49 It is further provided that the city may assume the payment
50 of such assessments or certificates covering the cost of intersection
51 and grading or any part thereof as provided in section thirty-
52 four of this act, or may reimburse the property owners, paying
53 the same out of its general levy for streets, or any surplus that
54 remain from any bond issue for street improvements, but there
55 shall be no legal obligation on the city to do so.

56 After a contract has been made by the council to pave or other-
57 wise permanently improve any public road, avenue, street or
58 alley in said city, under this act, and the paving or other
59 permanent improvements, or any stipulated part thereof, has been
60 completed, or the cost of acquiring or taking land as aforesaid has
61 been ascertained, the council shall assess the amount each lot
62 shall bear, and shall make a written report, stating the number
63 of lots and the blocks or tracts of land when not laid off into lots.
64 and the names of the owners of such lots or land when known,
65 and the amount assessed thereon; and when the said council
66 approves said report, or modifies it and then approves it, a copy
67 of said report, so adopted by the council, when certified to by
68 the city clerk of said city, may be recorded in the clerk's office

69 of the county court of Kanawha county in a trust deed book, and
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70 shall be a continuing tax lien upon the lot or land against which
71 the assessment is made until the certificates as aforesaid are paid,
72 except as otherwise provided in section thirty-seven of this act.
73 and the clerk shall index the same in the name of each lot or land
74 owner mentioned therein.

House Bill No. 253

(House Bill No. 253—Mr. White.)

AN ACT to amend and re-enact the several acts incorporating the town of St. Marys, which was done by an order of the circuit court of Pleasants county, West Virginia, on the twenty-third day of April, one thousand eight hundred and eighty; and by an act of the legislature of West Virginia passed February fifteen, one thousand nine hundred and one, incorporating and creating the city of St. Marys, in Pleasants county, and approved by the governor February eighteen, one thousand nine hundred and one, and being known and denominated chapter one hundred and forty-seven of the acts of the regular session, of one thousand nine hundred and one. And also an act denominated chapter nine, of the acts of the legislature of West Virginia, regular session, of one thousand nine hundred and seven, entitled: "An act to amend and re-enact chapter one hundred and forty-seven of the acts of one thousand nine hundred and one, incorporating the city of St. Marys, in relation to section nine and twenty-nine of said act, which act was passed February nineteen, one thousand nine hundred and seven, and became a law ninety days from its passage; to take in additional territory and add certain amendments to said charter;" and providing for a charter election to be held submitting to the voters of the territory within the present city of St. Marys and to those living within the additional territory, to vote thereon at an election to be held for that purpose, to be fixed and held under the supervision of the present municipal government of the city of St. Marys.

Be it enacted by the Legislature of West Virginia:

That in order to amend, revise and consolidate into one act, an order of the circuit court of Pleasants county, West Virginia, made and entered therein on the twenty-third day of April, one thousand eight hundred and eighty, incorporating the town of St. Marys in Pleasants county in said state; an act of the legislature of West Virginia, denominated and known as chapter one hundred and forty-seven of the acts of said West Virginia legislature of one thousand nine hundred and one, passed February fifteen, one thousand nine hundred and one, incorporating the city of St. Marys, in said Pleasants county, and also an amendment to said charter of said city of St. Marys, being chapter nine of the acts of the West Virginia legislature of one thousand nine hundred and seven, passed February nineteen, one thousand nine hundred and seven, amending sections nine and twenty-nine of said chapter one hundred and forty-seven, aforesaid, and to embody in this act and chapter all of said acts heretofore enacted and passed, that of the circuit court of Pleasants county and the acts of the West Virginia legislature; to take in additional territory and add certain amendments to said charter and to submit to the voters of said city in the territory within the present city limits and that to be included in this act, at a charter election to be fixed and held by the present municipal government now in power, and if adopted by a majority of all the legal votes cast at such election, this act from and after the date of said election shall be and remain the charter of "The City of St. Marys."

Section 1. That the inhabitants of so much of the county of Pleasants as is within the bounds described by section two of this act, and their successors, shall be and remain, and they are hereby made a body politic and corporate by the name of "The City of St. Marys," and as such shall have perpetual succession and a common seal and by that name may sue and be sued, plead and be impleaded, lease and hold real estate, and personal property necessary to the purpose of said corporation.

Sec. 2. The corporate limits of said city shall hereafter be as follows:

Beginning at the edge of the Ohio river, said starting point being down the river 1190 feet from North corner of Cain house; thence by surveys as the magnetic needle now points, S. $34\frac{3}{4}$ E. 1352 feet to center of run above stone quarry; thence N. 73 E. 2770 feet; thence N. $17\frac{1}{2}$ E. 300 feet above turn in pike; thence

7-a N. 38 E. 433 feet near water trough; thence N. $31\frac{1}{4}$
8 E. 1600 feet; thence N. $21\frac{3}{4}$ E. 3182 feet to M. I. Creek;
9 thence down the creek with the meanders thereof, N. 51 W. 452
10 feet; N. $57\frac{1}{2}$ W. 258 feet; N. 78 W. 177 feet; S. 88 W. 570 feet
11 corner of county bridge; thence N. 85 W. 557 feet across B. & O.
12 right of way; thence parallel with the same S. 25 W. 992 feet; S.
13 $36\frac{1}{4}$ W. 1360 feet to old corporation line; thence N. $60\frac{1}{2}$ W. 222
14 feet; S. $31\frac{1}{2}$ W. 1553 feet; N. $84\frac{1}{2}$ W. 147 feet to River edge;
15 thence with meanders of same, S. $19\frac{1}{2}$ W 315 feet; S. 29 W. 975
16 feet; S. $42\frac{1}{2}$ W. 995 feet; S. 45 W. 227 feet; S. 47 W. 211 feet; S.
17 50 W. 307 feet, to place of beginning.

Sec. 3. The territory of said city is hereby divided into three
2 wards, each of which is bounded and described as follows:

3 *First ward:* All that part of the territory above described ly-
4 ing south of a line running from the thoroughfare with the center
5 of Washington street to the east line of said corporation line near
6 what is known as the Horseshoe bend, shall constitute the first
7 ward.

8 *Second ward:* All that part of said territory above described,
9 included between the center of Washington street and Cherry
10 street of said city and extending from the thoroughfare and cor-
11 poration line on the west to the east line of said corporation shall
12 be and constitute the second ward.

13 *Third ward:* All of the remainder of said territory lying north
14 and east of the said Cherry street and up to Middle Island creek,
15 beginning with the line of said corporation at a point of intersec-
16 tion of said second ward, with the eastern and northern boundary
17 thereof, and binding thereon with the line of said corporation
18 back to its intersection at the end of said second ward, shall be
19 and constitute the third ward of said city.

20 Said three wards so formed as aforesaid, to be and remain as
21 constituted and laid down until changed by the municipal author-
22 ities of said city as provided by law.

Sec. 4. The municipal authorities of said city shall consist of
2 a mayor and two councilmen from each ward, six councilmen in
3 all, until additional wards be added to said city, who, together shall
4 form the common council. The mayor to be elected bi-annually
5 and hold for the term of two years; and all councilmen, after the
6 first election, shall be elected for the term of four years. At the
7 first election one councilman shall be elected for two years and

8 one for four years, to be so designated on the ballot, they to hold
9 their office for and during the term for which they are elected and
10 until their successors are elected and qualified. The mayor must
11 be a *bona fide* free holder of said city, and the councilmen must be
12 *bona fide* residents and free holders, or if not free holders, pos-
13 sessed of at least five hundred dollars worth of personal property
14 at the time of their election. The mayor and councilmen to re-
15 ceive such compensation for their services as the council shall from
16 time to time fix and determine; but, after the first election the
17 council in being shall fix the salary and compensation for the in-
18 coming officers. And it is further provided that the mayor and
19 councilmen of said city shall not be interested directly or indi-
20 rectly in any contract for the furnishing of the city with supplies
21 or other property, or become party or privies to any contract, di-
22 rectly or indirectly whereby they can or may receive anything in
23 money from said city, other than the salary fixed and allowed for
24 by this charter. And the mayor and councilmen, or any one of
25 them may be removed from office for malfeasance in office or for
26 neglect or failure to discharge the duties imposed upon them by
27 law, upon written charges preferred against them in the same
28 manner and according to the same rule governing the removal of
29 county and district officers. And the councilmen in being at the
30 time of such removal or resignation of the mayor or any council-
31 man shall fill the same by appointment until the next general
32 election.

Sec. 5. All the corporate powers of said corporation shall be
2 exercised by said council or under their authority, except when
3 otherwise herein provided.

Sec. 6. The appointed officers of this municipality shall con-
2 sist of a recorder, chief of police and his assistants, city collector,
3 health officer, city attorney and city manager, all of whom are
4 to be appointed by the council and hold their office during the
5 pleasure of the council, subject to removal for cause.

Sec. 7. The city recorder shall be required to keep a record of
2 all proceedings, including the minutes of all meetings of the coun-
3 cil, which should be kept, in a well bound book and properly in-
4 dexed, and shall also issue all orders for moneys on the treasury,
5 which orders must be countersigned by the mayor and city re-
6 corder; and such city recorder may be required to keep any other
7 records or do such clerical work as pertains to the municipal gov-

ernment of said city, or that is required to be done under the direction and supervision of the city manager, and shall receive such monthly compensation by way of salary as shall be fixed by the council, payable monthly. The city collector, shall, before entering upon the duties of his office, give such bond as the council may require, payable to the city of St. Marys for the faithful receiving and accounting for of all moneys that may come into his or her hands, and shall collect all moneys for taxes, license, water rent, or other levies and all taxes on dogs, and shall not pay out any moneys, except on orders ordered by the council and countersigned by the recorder and mayor; and shall render quarterly statements to the council or finance committee of the status and amount of moneys on hand, including all collections and disbursements for each three months during his or her incumbency in office; and he or she shall, at the end of their term of office account for and pay over all moneys remaining in his or her hands and turn over all uncollected taxes, license, and bills of any kind whatsoever, to his or her successor in office; and a failure so to do shall not only held him or her liable under their bond, but a willful neglect so to do shall be deemed a felony for which he or she may be prosecuted therefor.

The city health officer shall perform such duties as the council by ordinance may prescribe, in conjunction with the rules and regulations governing the health department of said city and as are prescribed by the state board of health, and he may be removed from office at any time for willful neglect of duty.

The city attorney shall do all the legal work required to be done by the council, pertaining to the affairs of said municipality, and shall advise the council at the regular or special meetings of the same and prosecute and defend all suits brought by the city or instituted against it; and shall advise the mayor and other officers in this municipality, when so requested, and shall do and perform all other duties as may be required by the municipal government.

The said council may appoint a chief of police and such assistants as are necessary, and the mayor may in any emergency and at the time the council is not in session, appoint special police on extraordinary occasions, if deemed necessary, and said chief of police and police officers are subject to control absolutely of the mayor, except when the council is in session.

All the foregoing officers, namely, city collector, city health offi-

39 cer, city attorney, chief of police, and police officers, shall receive
40 such pay and compensation, either monthly or otherwise, or to the
41 city collector a commission on receipts, as the council in regular
42 session may fix and determine; they to be paid monthly therefor;
43 subject to removal as aforesaid for cause, by the council.

44 The council shall, at the beginning of their term, appoint some
45 person qualified and efficient for that purpose, as city manager,
46 who shall hold his office at the pleasure of the council and have
47 full charge and authority over all the municipal affairs of said
48 city; except that pertaining to city recorder, city collector, health
49 officer, city attorney and police officers, and shall have general su-
50 pervision over the control, direction and management of the streets,
51 and alleys of said city and control the water works; and shall em-
52 ploy and install such person or persons as are competent and effi-
53 cient to do and perform the work required to be done for the bet-
54 terment of the city; supervise and control the laying of all pave-
55 ments, side walks and water lines; manage and control all connec-
56 tions for water to be made by persons, corporations or individuals
57 so requiring water; to see that the water service is properly looked
58 after and maintained, and to keep and to cause to have kept a rec-
59 ord in a book for that purpose, the names of all water con-
60 sumers to whom the city furnishes water or sells the same, ren-
61 dering to the city collector monthly accounts of all water so sold
62 to consumers within the city or elsewhere, subject to ordinances to
63 be enacted by the council. And shall see that the streets and
64 alleys of said city are kept clean and in a sanitary condition, and
65 to see that the owners of real estate do not encroach upon the city,
66 nor permit anything obnoxious, unsanitary or otherwise to be
67 kept within the corporate limits which is a menace to the health or
68 comfort of the citizens, subject, nevertheless to section 22-b; and
69 shall cause all property owners to keep and maintain their proper-
70 ty safe from fire; and in conjunction with the police of said city,
71 shall inspect all buildings at such times and under such conditions
72 as may be necessary as provided by this charter, or ordinances
73-75 passed in pursuance thereof. Said city manager to
76 do and perform such other duties as may be required of him or
77 prescribed by proper orders or ordinances adopted and entered of
78 record by the council, and shall receive such monthly compensa-
79 tion as may be fixed by the council and entered of record during
80 his term of office, payable monthly, and he may be removed for
81 cause.

Sec. 8. The first election shall be held hereunder on the second Tuesday in June, one thousand nine hundred and twenty-one; beginning on the said second Tuesday in June, one thousand nine hundred and twenty-one, and thereafter every two years. At each election there shall be elected a mayor for the term of two years, and as hereinbefore provided, one councilman for two years in each ward, and one councilman for four years in each ward; and thereafter there shall only be one councilman elected in each ward, biennially for two years. The terms of all officers so elected on the second Tuesday in June, beginning with the second Tuesday of June one thousand nine hundred and twenty-one, and thereafter every two years, shall be on the first day of July following their election, and they shall hold until their successors are elected and qualified according to law.

Sec. 9. The elective officers under this charter shall be nominated by a non-partisan mass convention to be held at least twenty days before the regular election to be held for mayor and councilmen, at which convention at least one and not more than two persons shall be nominated for mayor; and after the first election held under this charter, at least one and not more than two persons shall be nominated for council, from each ward of said city. And the municipal authorities of this city are hereby relieved from holding any primary election for the nomination of its elective officers, but the election to be held to be conducted under the Australian ballot system, now in force in this state, when this charter becomes effective.

Sec. 10. Every person residing in said city shall be entitled to vote for all officers elected under this act; but no person who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason, felony or bribery in an election, or who has not been a resident of this state for one year and of the city of St. Marys for sixty days, and is not a *bona fide* resident of the ward in which he or she offers to vote, shall be entitled to vote.

Sec. 11. Whenever two or more persons shall receive an equal number of votes for councilman or other city officer, such tie shall be decided by the council in being.

Sec. 12. All contested elections shall be heard and decided by the common council for the time being; and the contest shall be made and conducted in the same manner as provided for in contests for county and district officers; and the common council shall

5 conduct their proceedings in such cases as nearly as practicable in
6 conformity with proceedings of the county court in such cases.

Sec. 13. The mayor and council and all other officers provided
2 for in this act, shall each, before entering upon the duties of their
3 office, and within one week from the date of their election or ap-
4 pointment give the bond required from any officer by this charter,
5 and take the oath prescribed by law for all officers of this state;
6 and make oath that they will truly, faithfully, and impartially, to
7 the best of their ability, discharge the duties of their respective
8 offices, so long as they continue therein. Said oath or affirmation
9 may be taken before any person authorized to administer oaths,
10 under the law now in force, or before the mayor or recorder of said
11 city.

Sec. 14. If any person elected to any office under the provis-
2 ions of this act, shall not be eligible to such office under the pro-
3 visions of this act, or shall fail to qualify as herein required, the
4 council for the time being shall declare his said office vacant and
5 shall proceed to fill the vacancy as required by this act.

Sec. 15. The mayor shall be the chief executive officer of the
2 city, and shall take care that the orders, by-laws, ordinances,
3 acts and resolutions of the council thereof are faithfully executed.
4 He shall be *ex-officio* a justice and conservator of the peace within
5 the city, and shall within the same have, possess and exercise all
6 the powers and perform all the duties vested by law in a justice
7 of the peace; except, that he shall have no jurisdiction in civil
8 causes of action arising out of the corporate limits of the city.
9-13 Any warrant or other process issued by him may be
14 executed at any place in the county; he shall have con-
15 trol of the police of the city; and may suspend any
16 policeman for cause; and he may appoint special police
17 officers whenever he deems it necessary; and it shall be his duty
18 especially to see that the peace and good order of the city are
19 preserved, and that persons and property therein are protected:
20 and to this end he may cause the arrest and detention of all
21 riotous and disorderly persons in the city before issuing his war-
22 rant therefor. He shall have the power to issue executions for
23 all fines, penalties and costs imposed by him, or he may require
24 the immediate payment thereof, and in default of such payment he
25 may commit the party in default to the jail of the county of
26 Pleasants, or other place of imprisonment in such corporation, if

27 there be one, until the fine or penalty and costs shall be paid;
28 but the term of imprisonment in such case shall not exceed thirty
29 days. And in all cases where a person is sentenced to imprison-
30 ment, or to the payment of a fine of ten dollars or more, (and
31 in no case shall a judgment for a fine of less than ten dollars
32 be given by the mayor if the defendant, his agent or attorney ob-
33 ject thereto) such person shall be allowed an appeal from such
34 decision to the circuit court of said Pleasants county, and upon
35 the execution of an appeal bond with security deemed sufficient by
36 the mayor, in penalty double the amount of the fine and costs im-
37 posed by the mayor, with condition that the person proposing to
38 appeal will perform and satisfy any judgment which may be
39 rendered against him by the circuit court on such appeal. If
40 such appeal be taken, the warrant of arrest (if there be any)
41 the transcript of the judgment, the appeal bond, and other pa-
42 pers of the case, shall be forthwith delivered by the mayor to
43 the clerk of said court, and the court shall proceed to try the
44 case as upon indictment or presentment, and render such judg-
45 ment, including that of costs, as the law and the evidence may
46 require; *provided*, that no judgment for costs shall be rendered
47 in any such case against the city. The mayor shall from time
48 to time, recommend to the council such measures as he may
49 deem needful for the welfare of the city. The expense of main-
50 taining any person committed to the jail of the county by him,
51 except it be to answer an indictment or be under the provisions
52 of section two hundred and twenty-seven and two hundred and
53 twenty-eight of chapter fifty, of the amended code of this state,
54 shall be paid by the city. But the mayor shall not receive any
55 money belonging to the state or individuals unless he shall give
56 the bond and security required of a justice of the peace by
57 chapter fifty of the code; and all the provisions of said chapter
58 relating to money received by justices shall apply as to like
59 moneys received by the mayor. The mayor shall pay all moneys
60 received by him for fines, or by virtue of his office, belonging to
61 the city, to the city collector, within one week after he receives
62 the same.

Sec. 16. The presence of a majority of the council shall be
2 necessary to make a quorum for the transaction of business.

Sec. 17. The council shall cause to be kept by the recorder
2 in a well bound book, to be called the "minute book," an accurate

3 record of all its proceedings, ordinances, acts, orders and reso-
4 lutions, and in another to be called the "ordinance book", ac-
5 curate copies of all general ordinances adopted by the council;
6 both of which shall be fully indexed and open to the inspection of
7 any one required to pay taxes to the city, or who may be other-
8 wise interested. All oaths and bonds of officers in the city and
9 all papers of the council shall be endorsed, filed and securely
10 kept by the recorder. The bonds of officers shall be recorded in
11 a well bound book to be called the "record of bonds." The re-
12 corder shall perform all such other duties as may by ordinance
13 of the council be prescribed, and shall be *ex-officio* clerk of the
14 police court. All printed copies of such ordinances purporting
15 to be published under authority of the council, and transcript
16 of such ordinances, acts, orders and resolutions, certified by the
17 recorder, under the seal of the city, shall be deemed *prima facie*
18 correct, when sought to be used in any court or before any
19 justice.

Sec. 18. At each meeting of the council the proceedings of the
2 last meeting shall be read and corrected, if erroneous, and signed
3 by the presiding officer for the time being.

Sec. 19. The mayor shall have no vote on any questions, ex-
2 cept on a tie in council.

Sec. 20. The council shall, at the beginning of their term,
2 elect one of their members mayor *pro tempore* who shall be quali-
3 fied to act as mayor in his absence; or in case of the death,
4 resignation or removal of the mayor, the said person so appoint-
5 ed mayor *pro tempore* shall hold the office of mayor until the
6 mayor shall have been appointed by the council to fill such va-
7 cancy for the unexpired term, and said mayor *pro tempore* in
8 the absence of the mayor, shall be clothed with all power and
9 authority conferred by this charter upon the mayor elect. In
10 case of the absence, death or disability of the mayor, and mayor
11 *pro tempore*, then council shall select a member of council to
12 act as such.

Sec. 21. The meetings of the council shall be held at such
2 place in said city, and at such times, as they shall from time
3 to time ordain and appoint; but it shall be lawful for the council,
4 by ordinance, to vest in any officer of said city, or in any mem-
5 ber or number of members of their own body, the authority to
6 call special meetings; and it shall, by ordinance, prescribe the

7 mode in which notice of such meetings shall be given; and no
8 business shall be transacted unless a majority of all the members,
9 of which it then consists, shall be present; except, that a less
10 number may compel the attendance of absent members, under such
11 reasonable penalties as they may think proper to impose, and
12 all questions put, except in such matters as are herein provided
13 for, shall be decided by a majority of the members present.

Sec. 22. The council of said city shall have power to lay
2 off, vacate, close, open, alter, grade and keep in good repair,
3 the roads, streets, alleys, pavements, sidewalks, crosswalks,
4 drains, and gutters therein, for the use of the citizens or of
5 the public, and to improve and light the same, and to keep
6 them free from obstruction of every kind; to regulate the width
7 of the pavements and sidewalks on the streets and alleys, and
8 to order the pavements, sidewalks, footways, drains and gutters
9 to be kept in good order, free and clean, by the owners or oc-
10 cupants of the real property next adjacent thereto; to establish
11 and regulate markets, prescribe the time of holding the same,
12 provide suitable and convenient buildings therefor, and prevent
13 the forestalling of such markets; to prevent injury or annoy-
14 ance to the public, or to individuals from any thing dangerous,
15 offensive or unwholesome; to prohibit or regulate slaughter
16 houses, tan houses, and soap factories, within the city limits,
17 or the exercise of any unhealthful or offensive business, trade or
18 employment; to abate all nuisances within the city limits, or
19 to require and compel the abatement or removal thereof, at
20 the expense of the person causing the same, or by or at the
21 expense of the owner or occupant of the grounds on which they
22 are placed or found, subject nevertheless, to section 22-b; to cause
23 to be filled up, raised or drained, by or at the expense of the own-
24 er, any city lot or tract of land covered or subject to be covered by
25 stagnant water; to prevent horses, hogs, cattle, or other animals,
26 and fowls of all kinds, from going or being at large in such city,
27 and as one means of prevention, to provide for impounding and
28 confining such animals and fowls, and upon failure to reclaim for
29 the sale thereof; to protect places of divine worship, and pre-
30 serve order in and about the premises where and when such wor-
31 ship is held; to regulate the keeping of gun powder and other in-
32 flamable or dangerous substances, subject, nevertheless, to section
33 22-b; to provide for the regular building of houses or other struc-

34 tures, and for the making and maintaining of division fences by
35 the owners of adjoining premises, and for the proper drainage of
36 city lots or parcels of land, by or at the expense of the owner or
37 occupant thereof; to provide against danger or damage by fire; to
38 punish for assault and batteries; to prohibit the keeping or loiter-
39 ing in or visiting houses of ill-fame; or loitering in saloons, or
40 upon the streets; to prevent lewd or lascivious conduct, the sale or
41 exhibition of indecent pictures or other representations; the
42 desecration of the Sabbath day, profane swearing, the illegal
43 sale of intoxicating liquors, mixtures and preparations, beer,
44 ale, wine or drinks of like nature; to protect the persons of
45 those residing or being within the said city; to appoint, when
46 necessary, or advisable, a police force, permanent or temporary,
47 to assist the chief of police in the discharge of his duties; to
48 build or purchase, or lease and use a suitable place of im-
49 prisonment within or near the said city, for the safe keeping
50 or punishment of persons charged with or convicted of the vio-
51 lation of ordinances; to erect or authorize or prohibit the erec-
52 tion of gas, electric light or water works, within the city limits;
53 to prevent injury of such works, or the pollution of any gas
54 or water used or intended to be used by the public or individuals;
55 to provide for and regulate the weighing or measuring of hay,
56 coal, lumber and other articles sold or kept, or offered for sale,
57 within said city, and to establish rates and charges for said
58 weighing or measuring; to regulate the running and speed of
59 engines and cars within the said city; to create by ordinance
60 such committees and boards, and delegate such authority there-
61 to as may be deemed necessary or advisable; to provide for the
62 annual assessments of the taxable property therein, including
63 dogs kept in said city, and regulate their running at large,
64 and to provide a revenue for the city for municipal purposes,
65 and to appropriate such revenue to its expenses; and generally,
66 to take such measures as may be deemed necessary or advisable
67 to protect the property, public and private, within the city;
68 to preserve and maintain peace, quiet and good order therein,
69 and to preserve and promote the health, safety, comfort and
70 well being of the inhabitants thereof. The council shall have
71 authority to pass all ordinances (not repugnant to the consti-
72 tution and laws of the United States and of this state) which
73 shall be necessary or proper to carry into full effect and power

74 the authority, capacity and jurisdiction which is, or shall be,
75 granted or vested in the said city or in the council, or in any
76 officer or body of officers of said city, or to enforce any or all
77 ordinances by reasonable fines and penalties, and by imprisoning
78 the offender or offenders, and upon failure to pay any fine or pen-
79 alty imposed, by compelling them to labor without compensation
80 on any of the public works or improvements undertaken, or
81 to be undertaken by said city; or to labor at any work which
82 the said city may lawfully employ labor upon, at such a rate
83 per diem as the council may fix, but not at less rate than is
84 fixed by said city council for like labor from other employes
85 of said city, until any fine or fines imposed upon any such
86 offender or offenders by said city shall have been fully paid
87 and discharged, after deducting charges of support while in
88 the custody of the officers of said city; and all ordinances re-
89 lating to licenses and the sale of spirituous liquors, malt liquors
90 or wines, and the keeping of or dwelling or loitering in houses
91 of ill-fame; and such police regulations as may be ordained
92 for said city, and the right and power to enforce the same shall
93 extend one mile, in the state of West Virginia, beyond the cor-
94 porate limits of the city; *provided, however,* that no fine shall
95 be imposed exceeding one hundred dollars, and that no person
96 shall be imprisoned or compelled to labor, as aforesaid, more
97 than thirty days for any one offense. And in all cases where
98 a fine is imposed for an amount exceeding ten dollars, or a
99 person be imprisoned or compelled to labor as aforesaid, for
100 a term greater than ten days, an appeal may be taken from any
101 such decision, upon the same terms and conditions that appeals
102 are taken from the judgment of a justice of this state. Such
103 fines and penalties shall be imposed and recovered and such
104 imprisonment inflicted and enforced, by and under the judg-
105 ment of the mayor of the city, or in case of his absence or in-
106 ability to act, by the mayor *pro tempore* of said city, or if he be
107 unable to act, then a member of the council, to be appointed by
108 the council for that purpose. In addition to the powers above
109 enumerated, the said city council shall have power to improve,
110 amplify, expand and maintain the water works of said city, and
111 to provide for an adequate supply of pure, healthful water
112 for said city, and to do all things necessary to adequately supply
113 said city with pure, wholesome water; and provide, contract

114 for, construct and maintain an adequate sewerage system for
115 said city.

116 *Provided, however,* that no license, even if permitted by the
117 authorities of this state, shall be granted by the counsel for
118 said city for the sale, offer or exposing for sale of any brandy,
119 whiskey, rum, gin, wine, porter ale, or beer or any other spirit-
120 uous, vinous or malt liquors or any intoxicating liquor, drink
121 or mixture or preparation whatever within said city or within
122 one mile of the corporate limits thereof, and the same is abso-
123 lutely prohibited.

Sec. 22-a. The council shall have power by ordinances to
2 regulate the erection of buildings within said city, grant per-
3 mission therefor, and prohibit the erection of any building or
4 the material to be used therein, unless the same conforms to
5 the ordinances hereinafter enacted, that will conduce to the
6 safety of the citizens of said municipality and the adjacent prop-
7 erty owners; but nothing herein contained shall abridge or re-
8 strict the right of any property owner, lessee or tenant thereof
9 from using his property for any legitimate business; subject to
10 such rules and regulations as the council may prescribe by or-
11 dinance not repugnant to the constitution of this state; nor shall
12 the council hereafter impose any unjust or unusual restriction or
13 requirement, nor pass any ordinance or ordinances abridging the
14 rights of property owners from exercising and carrying on any
15 legitimate business, unless the same is a menace to public safety,
16 or deleterious to the lives or health of the residents of said city,
17 or which is unsanitary and offensive to the people at large; nor
18 permit any unsanitary or defective plumbing to be done or al-
19 lowed within the city or in any buildings therein, nor permit
20 or allow any defective, insufficient or dangerous electric plumbing
21 to be installed or placed in any building or buildings in said
22 city by any person, firm or corporation, unless the same is done
23 with proper and safe material and in a mechanical manner; and
24 said plumbing, both sanitary and electrical, shall be subject to
25 the inspection and condemnation of an engineer appointed by
26 the council to inspect the same; and all such work, sanitary, elec-
27 tric or other plumbing to be under the control of the council
28 or its engineer to be regulated by proper ordinances.

29 And it is *further provided*, that said council, through its city
30 manager or competent engineer shall, at least every three months

31 during the year, or oftener if necessary, inspect all buildings,
32 houses and other structures within said city, and especially all
33 public buildings, churches, school houses, theatres and places of
34 amusement including movies, and note the kind and quality of
35 plumbing and heating arrangements, and the manner and places
36 of exit to all theatres or places of amusement, including movies;
37 and in all buildings above the second story that are used by the
38 public to have proper means of exit and fire escapes if required.
39 And council shall have power to enforce this section by proper
40 ordinances.

Sec. 22-b. *Provided, however,* that no ordinance shall be enact-
2 ed or passed by said city council, or any action taken by it, relative
3 to the refining, manufacture, storing or keeping in storage of petro-
4 leum, oil and its by-products, within the said city limits; nor shall
5 there be passed or enacted by said council any ordinance common-
6 ly known as smoke ordinance in said city, nor shall said council
7 take any action in regard thereto under this charter, but all such
8 matters shall be solely governed and controlled by general state
9 laws now in force and effect, or that may hereafter be enacted.

Sec. 23. The council of said city is further granted the au-
2 thority to issue license within said city for any legitimate pur-
3 pose or business for which a state license is issued and granted.
4 and is permitted to charge the same license fee therefor, pursu-
5 ant to the provisions of chapter thirty-two of the code of West
6 Virginia of one thousand nine hundred and eighteen, *provided,*
7 the county court of Pleasants county shall have granted the same
8 or the clerk of the county court of said county, acting in lieu
9 of said court, granted the same; this shall include pool rooms,
10 bowling alleys and billiard and pool tables; and the
11 council expressly reserves the right and power to regulate the
12 hours at which pool rooms and bowling alleys shall be kept
13 open and maintained, and may for cause revoke the license,
14 and also reserves the power to itself to limit the speed and
15 manner in which automobiles, trucks and other vehicles are used
16 and operated in said city, over and across its roads, streets and
17 alleys and fix such restrictions as to speed, size, etc., of such
18 automobiles, trucks or other vehicles as will conduce to the safe-
19 ty, and comfort of the citizens of said municipality and the
20 protection of persons traveling the streets; as well as the size
21 of the motor vehicles or other cars transporting stuff over and

22 across the streets and alleys of said city, which are exclusively
23 kept up and maintained by the taxes and levies within the said
24 municipality.

Sec. 24. A book, well bound and indexed, to be denominated
2 the "docket", shall be kept in the office of the mayor, in which
3 shall be noted each case brought before or tried by him, together
4 with the proceedings therein, including a statement of the com-
5 plaint, the summons, the return, the fact of appearance or non-
6 appearance, the defense, the hearing, the judgment, the costs,
7 and in case the judgment be one of conviction, the action taken
8 to enforce the same. The record of each case shall be signed by
9 the mayor, and the original papers thereof, if no appeal be taken,
10 shall be kept together and preserved in his office, and the mayor
11 shall deliver to his successors the docket and all books and papers
12 pertaining to his office. The mayor or mayor *pro tempore* shall
13 act as a police judge and try all offenders brought before him
14 or hear and make all entries in the docket and have the same
15 power and jurisdiction as justice of the peace, and shall enforce
16 criminal ordinances in force, or that may be passed in pursuance
17 to this charter, and see that the same are enforced rigidly, to
18 the end that the peace and good order of the city is observed; and
19 any willful neglect of duty on the part of the mayor or mayor
20 *pro tempore* will render him liable to be suspended from office
21 by the council and removed therefrom, on ten days notice upon
22 written charges preferred against him.

Sec. 25. The council shall cause to be made up annually
2 and spread upon its minute book, an accurate estimate of all
3 sums which are, or may be, lawfully chargeable against the city,
4 and which ought to be paid within one year; and it shall order
5 a levy of so much as will, in its judgment, be necessary to pay
6 the same. Such levy shall be upon all real property and personal
7 property subject to state and county taxes therein including a
8 poll tax of not more than fifty cents upon each citizen resident of
9 said corporation over twenty-one years of age; *provided*, that such
10 levy shall not exceed thirty-five cents on every one hundred dol-
11-12 lars of the ascertained value of such property. At least once in
13 each year the council shall cause to be made up and published
14 in one or more newspapers of the city, a statement of the rev-
15 enue received from the different sources, and of the expendi-

16 tures upon the different accounts for the preceding year, or por-
17 tion of the year, as the case may be.

18 And there shall be levied a tax of one dollar on all male dogs
19 within the corporate limits, and not to exceed five dollars on
20 each female dog; a list of which dogs shall be furnished by the
21 police officers to the recorder of said city, to be by him or her
22 transmitted to the assessor of Pleasants county, not later than
23 the thirtieth day of June of each year; and a failure on the part
24 of any police officer to make any such report and return, upon
25 complaint being lodged with the council, shall be sufficient cause
26 for his removal from office. And it is *further provided* that
27 said dog tax shall be collected by the city collector and if a per-
28 son owning such dog declines and refuses to pay the same, the
29 city collector shall report the same to the police officers, whose
30 duty it shall be to kill such dog forthwith.

Sec. 26. The council, upon the return of the assessor, shall
2 cause the said assessor's books to be correctly copied by the
3 recorder into well bound books to be provided for the purpose,
4 and the taxes extended in each book, one of which shall be de-
5 livered to the city collector, taking his receipt therefor, as well
6 as for the taxes therein contained.

Sec. 27. Annual levy by municipal council. At its session
2 held on the second Tuesday, in August, as aforesaid, the common
3 council of every municipal corporation shall ascertain the con-
4 dition of the fiscal affairs thereof, and make up an itemized
5 statement of the same, which shall set forth in detail.

6 (a) The amount due the municipality, and the amount that
7 will become due thereto and collectable during the current fiscal
8 year, from every source, but excepting the amount that will be
9 produced by the levy of taxes to be made for the year.

10 (b) The debts and demands owed by the municipality, and
11 the debts and demands that will become due and payable during
12 the current fiscal year, including interest on any indebtedness,
13 funded or bonded or otherwise.

14 (c) All other expenditures, under the several heads of ex-
15 penditures, to be made and payable out of the funds of the mu-
16 nicipality for the current fiscal year, including the cost of col-
17 lection of taxes and other claims, with proper allowances for
18 delinquent taxes and contingencies. Said statement shall also
19 set forth the total amount necessary to be raised by the levy of

20 taxes for the current fiscal year; and the proposed rate of levy
21 of taxes on the property of the municipality; and also the ag-
22 gregate of the taxable property in the municipality, stating sep-
23 arately the amount of personal property, of real estate, and of
24 the property assessed by the board of public works. A copy of
25 such statement duly certified by the clerk, recorder or other re-
26 cording officer of such municipality, shall be published as pro-
27 vided in sections one and two of chapter twenty-eight-a, Barnes'
28 code, of West Virginia, one thousand nine hundred and sixteen;
29 and posted at each voting place in the municipality at least
30 eight days before an adjourned meeting of the common council
31 to be held on the fourth Tuesday in August; at which time the
32 council shall reconvene and proceed in all respects as provided
33 in sections one and two, chapter twenty-eight-a, Barnes' code,
34 West Virginia, one thousand nine hundred and sixteen. After
35 having entered the said statement, as finally approved, in its
36 book of record of proceedings, the council shall thereupon levy
37 as many cents on each one hundred dollars of the assessed valu-
38 ation of the property of the municipality, according to the last
39 assessment thereof, as will produce the amount shown by the
40 said statement necessary to be raised for municipal purposes
41 during the fiscal year; *provided*, that such levy shall not ex-
42 ceed thirty-five cents on each one hundred dollars of said valu-
43 ation for any year, anything in this charter to the contrary, not-
44 withstanding.

Sec. 28. And the council of said city is hereby empowered
2 and authorized at any time that the necessity thereunder arises,
3 or the condition of the municipal affairs are such that a special
4 levy should be required for any purpose, the power is hereby
5 granted to the said council of the said city of St. Marys to make
6 such other further or additional levies in the manner prescribed
7 by sections five, six, seven and eight of chapter twenty-eight-a
8 of the code of West Virginia, one thousand nine hundred and
9 sixteen; and said sections five, six, seven and eight are made
10 part and parcel of this charter and held and treated the same
11 as if fully copied herein; and the council of said city is hereby
12 empowered and authorized at any time that the legislature of
13 West Virginia shall amend or change said sections five, six,
14 seven and eight of chapter twenty-eight-a, to make such amend-
15 ments conformable to this charter.

Sec. 29. And section nine of chapter twenty-eight-a, Barnes' code of West Virginia, one thousand nine hundred and sixteen, concerning unlawful expenditures, indebtedness and liability, is made a part and parcel of this charter.

Sec. 30. There shall be a lien on personal property and real estate within said city for the city taxes assessed thereon, and for all fines and penalties assessed or imposed upon the owners thereof by the authorities of such city from the time the same are so assessed or imposed, which shall have priority over all other liens, except the lien for taxes due the state and county; and which may be enforced by the council in the same manner provided by law for the enforcement of the lien for county taxes. If any real estate within said city be returned delinquent for the non-payment of taxes due thereon, a copy of such delinquent list may be certified by the council to the auditor, and the same may be sold for city taxes, interest and commissions thereon, in the same manner, at the same time and by the same officers, as real estate is sold for state taxes.

Sec. 31. It shall be the duty of the council of said city to, at the first regular meeting in each year, appoint three persons, residents of said city, to act in the capacity of trustees of the sinking fund accrued from any and all special levies made and collected, for the purpose of paying the interest and principal upon the bonded indebtedness of said city; and it shall be the duty of said trustees to take charge of and invest said sinking fund in safe securities at their discretion and in such manner as to yield to the said city of St. Marys the best interest thereon that said trustees can obtain; which interest shall be received by said trustees for the benefit of the said city, and paid over by them at the time of making their settlement to such person or persons as the council may direct. Before entering upon their duties as trustees of said sinking fund, said three trustees so appointed shall execute and file with the recorder of said city, a bond in a sum to be fixed by the council, sufficient to cover and secure all moneys coming into their hands by reason of their said office; which bond shall be executed by them, together with good personal security to be approved by the council. Said trustees of the sinking fund shall make and file with the council a full and complete statement once each year, or as often as the council may deem necessary and require, and said trustees shall

23 make a full and complete settlement and pay over all moneys
24 in their hands as such trustees, whenever required by the council
25 so to do.

Sec. 32. All bonds, obligations or other writings, taken in
2 pursuance of any provision of this act, shall be made payable to
3 "the city of St. Marys", and the respective persons and their
4 heirs, executors, administrators and assigns bound thereby, shall
5 be subject to the same proceedings on the said bond, obligation
6 and other writing, for enforcing the condition of the terms there-
7 of, by motion or otherwise, before any court of competent juris-
8 diction in and for the county of Pleasants, that collectors of
9 county levies and other sureties are, or shall be subject to, on
10 their bonds for enforcing the payment of the county levies.

Sec. 33. The council shall have the right to institute proceed-
2 ings in the name of the city, for the condemnation of real estate
3 for streets, alleys, drains, market grounds, city prison or other
4 work or purpose of public utility. Such proceedings shall con-
5 form to the provisions of chapter forty-two of the code of West
6 Virginia, and the expenses thereof shall be borne by the city.

Sec. 34. All acts or parts of acts, inconsistent with this act,
2 are hereby repealed; but this act shall not be construed to repeal,
3 change or modify any previous act consistent with this act,
4 authorizing the town of St. Marys to contract debts or to bor-
5 row money, or to take away any of the powers conferred upon
6 said town of St. Marys, or upon the mayor or council, or any
7 of the officers, conferred by general law, except so far as the
8 same are inconsistent with the powers hereby conferred; and
9 the city of St. Marys, hereby created, shall be held in all things
10 to be the legal successor to the town of St. Marys, heretofore
11 existing, and all legal obligations of the said town shall be valid
12 and binding upon the city of St. Marys.

Sec. 35. It is made part and parcel of this charter that all
2 indebtedness heretofore contracted either by bond issue or issues,
3 or the issue of orders, or evidence of indebtedness of any kind
4 against the city of St. Marys, or the former town of St. Marys,
5 shall in no wise be effected by the adoption of this charter; but
6 the city council is authorized and empowered, and it is made a
7 condition precedent that said municipality shall provide for
8 and take care of said indebtedness in the manner provided by
9 law; and said city through its municipal authorities are author-

10 ized and empowered by proper ordinances entered of record and
11 election held therefor, if necessary, and ratified by a three-fifths
12 of the voters of said municipality, at an election to be held for
13 that purpose, to fund its bonded and other indebtedness at a
14 rate of interest, not exceeding six per cent, to run for a period
15 of not longer than thirty-four years, and said council is given
16 the right and privilege hereunder of all powers conferred to
17 cities and towns in this state by chapter forty-seven of Barnes'
18 code of West Virginia, one thousand nine hundred and sixteen,
19 governing cities and towns; and especially that part of said
20 chapter, sections forty-nine-b-one, forty-nine-b-two, forty-nine-b-
21 three, forty-nine-b-four, forty-nine-b-five, forty-nine-b-six, forty-
22 nine-b-seven, forty-nine-b-eight, forty-nine-b-nine, forty-nine-b-
23 ten, and forty-nine-b-eleven.

24 Also forty-nine-one-c, forty-nine-two-c, forty-nine-three-c, forty-
25 nine-four-c down to and including forty-nine-c. Which acts
26 of said code of one thousand nine hundred and sixteen, chapter
27 forty-seven, aforesaid, are made a part and parcel of the organic
28 law of this city.

Sec. 36. It is hereby expressly provided that immediately
2 after the passage of this act and the approval by the governor
3 of this state, or its approval, by reason of his failure to sign
4 the same, the present council and municipality of the city of
5 St. Marys in being, shall cause a charter election to be held
6 at three public places in the wards designated herein, numbers
7 one, two and three, at such time and place and on a day to be
8 named therein, under the general rules and regulations for the
9 governing and controlling of general elections in this state; and
10 which election shall be held after two weeks notice is given of
11 the time and place of said election; and the ballots shall have
12 printed thereon, "For the amended charter of the city of St.
13 Marys" and "against the amended charter of the city of St.
14 Marys." And if, on the vote being taken canvassed and cer-
15 tified, within five days thereafter, a majority of all the voters
16 shall have voted in the affirmative, then said charter, so amended,
17 shall from thence on be in full force and effect, and shall be the
18 organic law governing said municipality, but if a majority of
19 the votes cast at said election are found to be against said rati-
20 fication, then said proposed charter will not have been adopted

21 and the present charter now in being will continue in force and
22 effect as it now is.

Sec. 37. In case said charter is adopted, at said charter elec-
2 tion held as aforesaid, then all acts and parts of acts incon-
3 sistent with this proposed charter, shall be deemed to have been
4 repealed, and are, hereby repealed.

Sec. 38. The mayor and council in being and all elective offi-
2 cers of the city of St. Marys, in office at the time of the passage
3 of this act, shall hold their respective offices and exercise all
4 the powers and discharge all the duties thereof until their suc-
5 cessors are elected and qualified; and shall exercise the powers,
6 perform the duties, and receive the compensation heretofore con-
7 ferred, prescribed and allowed by the former charter, by gen-
8 eral law or by the ordinances of the said town, while they shall
9 remain in office under the provisions of this act.

10 All ordinances in force in the city of St. Marys, at the time
11 of the passage of this chapter and the taking effect of the same,
12 shall continue to have full operation and effect as ordinances
13 of the city of St. Marys until amended, repealed or suspended
14 by the council of said city, except such thereof as are incon-
15 sistent with the provisions of this act.

Sec. 39. The said city council shall have full power and au-
2 thority to change and enlarge the corporate limits of said city
3 in manner and in form, and under the provisions provided by
4 sections forty-eight and forty-nine, chapter forty-seven, of Barnes'
5 code of West Virginia, edition of one thousand nine hundred
6 and sixteen.

House Bill No. 437

(House Bill No. 437—Mr. Deuley.)

AN ACT to repeal section fourteen-a of the charter of the city of Wells-
burg, as amended and re-enacted by chapter ten of the acts of
the legislature of the year one thousand nine hundred and seven,
relating to the eligibility of mayor, city collector, treasurer and
councilmen to hold office in said city.

Be it enacted by the Legislature of West Virginia:

Section 1. That section 14-a of the charter of the city of
2 Wellsburg, as amended and re-enacted by chapter ten of the acts

3 of the legislature of the year one thousand nine hundred and seven
4 be, and the same is hereby repealed.

Sec. 2. All acts and parts of acts inconsistent with said section
2 fourteen-a of chapter ten of the acts of the legislature of the year
3 one thousand nine hundred and seven are hereby repealed.

House Bill No. 128

(House Bill No. 128—Mr. Otto.)

AN ACT to amend and re-enact sections six, nine, twenty-three, fifty, fifty-nine, seventy-five, seventy-seven, eighty-four and ninety-eight of the part entitled Greater Wheeling Charter of an act of the legislature of West Virginia, passed on the twentieth day of February, one thousand nine hundred and fifteen, entitled An act to amend, revise and consolidate into one act an act of the legislature of West Virginia, passed February eleventh, one thousand nine hundred and seven, entitled: An act to amend, revise and consolidate into one act an act of the general assembly of Virginia, passed March eleventh, one thousand eight hundred and thirty-six, entitled: An act to incorporate the city of Wheeling, in Ohio county, and all subsequent acts, both of the general assembly of Virginia and of the legislature of West Virginia, which form a part of the charter of the city of Wheeling; chapter eleven of the acts of said legislature of West Virginia of one thousand nine hundred and nine; chapter two of the acts of said legislature of one thousand nine hundred and eight, extra session; and chapter ninety-one of the acts of said legislature at the regular session in the year one thousand nine hundred and thirteen; and all other acts of the said legislature, passed since the passage of said act of February eleventh, one thousand nine hundred and seven, and which form a part of the charter of the city of Wheeling; and providing that the charter of said city shall be one of two forms of charters in this act set forth, according to the decision of the voters of said city at the general election to be held on the fourth Thursday in May, one thousand nine hundred and fifteen.

Be it enacted by the Legislature of West Virginia:

That section six of that part entitled "Greater Wheeling Charter," of chapter twenty-one of the acts of the legislature of West Vir-

ginia, of one thousand nine hundred and fifteen, (Municipal Charters) approved by the majority of the voters of the city of Wheeling at an election held on the fourth Thursday of May, one thousand nine hundred and fifteen as amended and re-enacted by chapter one hundred and seventeen of the acts of the legislature of West Virginia, (Municipal Charters) be amended and re-enacted so as to read as follows:

Section 6. Said city shall have a city council of not less than 2 eleven members. All councilmen shall take office on the first day 3 of July, following their election, and shall serve for a term of two 4 years and until their successors are elected and have qualified, 5 unless sooner removed from office as hereinafter provided. They 6 shall be residents of the city and qualified voters therein. No one 7 elected a member of such city council shall be eligible to hold office 8 as such member, who shall be interested directly or indirectly in 9 the profits or emoluments of any contract, job, work or service for 10 the city, or in any sale to it of any property, real or personal; or 11 be, directly or indirectly, a holder or owner of any bond or stock 12 of any public utility corporation enjoying a franchise, privilege 13 or easement in or from such city; or be an officer, agent, trustee, 14 servant or employee of such a corporation. If any such person 15 shall serve or attempt or continue to serve as a member of such 16 city council who is not eligible for such membership, he shall be 17 guilty of a felony, and upon conviction thereof, be confined in the 18 penitentiary of this state not less than one nor more than five 19 years. The member of council nominated and elected from the 20 city at large shall be chairman or presiding officer of council, who 21 shall be known officially as mayor of the city, and recognized as 22 such for ceremonial purposes, and for the purpose of being served 23 with civil processes against the city, and for the performance of 24 all duties imposed upon him by this charter.

Sec. 9. Councilmen shall be paid ten dollars each for every 2 regular meeting they attend, and the mayor shall be paid fifteen 3 dollars for like attendance, but no compensation shall be allowed 4 for special meetings, nor for any committee meeting of the council. 5 No extra compensation shall be granted or allowed to any mem- 6 ber of council, agent or servant of the city, or contractor therewith 7 after the services shall have been rendered or the contract made; 8 nor shall any payment be made of any claim or part thereof, 9 created against the city, under any agreement or contract made 10 without express authority of law; and all such unauthorized

11 agreements shall be null and void. Nor shall the salary or com-
12 pensation of any member of council be increased or diminished
13 during his term of office. No member of the council shall receive
14 any additional emolument, allowance or perquisite on any account.
15 save the compensation hereinbefore in this section provided.

Sec. 23. "The council of the city of Wheeling shall have the
2 power to enact and enforce ordinances and regulations limiting the
3 speed of vehicles upon its streets, alleys and other public thorough-
4 fares within its limits, and likewise limiting the size and weight of
5 vehicles, and the weight per inch width of tire, upon such
6 streets, alleys and other public thoroughfares within its limits as
7 are not designated by the state road commission as connecting
8 parts of the road system. The council of the city of Wheeling
9 shall also have power to regulate or forbid the parking of vehicles
10 upon any designated streets, alleys and other public thoroughfares
11 within its limits, and to regulate the progress of traffic at street
12 intersections."

Sec. 50. The council may cause to be taken or damaged for
2 the use of the city, for streets, alleys, markets, bridges, public
3 squares, parks, playgrounds and other municipal purposes, in-
4 cluding occupation by sewer, water pipes, gas pipes, heating pipes,
5 compressed air pipes and electric or other subways, any private
6 property within the city. (and where such use is to secure or im-
7 prove the water supply, or for park, playground, sanitary or ceme-
8 tery purposes, outside the limits of the city), but no such property
9 shall be taken or damaged without just compensation. The com-
10 pensation, if it cannot be determined by agreement with the owner
11 of the property so taken or damaged, shall be ascertained in such
12 manner as is or may be, prescribed by general law for the condem-
13 nation of land for public purposes. In addition to all other levies
14 provided by law the council of the city of Wheeling shall have the
15 right to levy annually one cent on each one hundred dollars of the
16 assessed valuation of the property within the limits of the city
17 according to the last assessment thereof for state and county pur-
18 poses, for the purpose of obtaining and maintaining playgrounds
19 and recreation centers.

Sec. 59. The judge of the police court shall have jurisdiction
2 over all offenses against, or violation of, the ordinances of said
3 city, and full authority to punish in any manner lawfully pre-
4 scribed by such ordinances, the offenders against or violators of the

5 same; *provided, however*, that no jury shall be allowed in any
6 trial in said court for the violation of any ordinance of said city.

7 The said judge of the police court shall have the same criminal
8 and civil jurisdiction and powers within the county of Ohio as
9 is provided by law for justices of the peace elected in said county.

Sec. 75. The county assessor or other officer assessing property
2 in Ohio county, for taxation for state and county purposes, shall
3 furnish to the council of the city of Wheeling, a transcript of the
4 assessment of real and personal property within said city liable to
5 taxation by the state, on or before the first day of August of each
6 year, and he shall receive such compensation therefor as may be
7 fixed by said council.

Sec. 84. Said city of Wheeling is hereby authorized to issue
2 and sell its bonds. *Provided*, that the said city shall not by such
3 issue and sale of bonds cause the aggregate of its debts of every
4 kind whatsoever to exceed five per centum of the valuation of the
5 taxable property therein, which value shall be ascertained by the
6 last assessment for state and county taxes previous to the issue of
7 said bonds, nor shall said city make such issue and sale without at
8 the same time providing for the collection of a direct annual tax
9 of an amount sufficient to pay the annual interest of such debt and
10 the principal thereof within and not exceeding thirty-four years.

11 No bonds shall be issued by said city unless all questions con-
12 nected with the same shall have been first submitted to the quali-
13 fied voters of said city and have received three-fifths of all the
14 votes cast for and against the same.

15 When the council shall deem it expedient to issue bonds, an
16 ordinance specifying the purpose and amount for which such
17 bonds are to be issued shall be adopted by them at a regular
18 meeting and it shall then be the duty of the mayor of the city to
19 issue a proclamation reciting said ordinance and appointing a day
20 at which an election shall be held by the qualified voters of the
21 city to decide whether they will ratify or reject said ordinance.
22 Any bond ordinance may be voted on at the time of holding any
23 general municipal election or a special election may be held for
24 the purpose of submitting said ordinance to a vote of the people.
25 If a bond ordinance is submitted to a vote at the time of a gen-
26 eral municipal election, separate ballots shall be provided therefor.
27 Such proclamation shall be published in two newspapers of oppo-

28 site politics published in the city, once a week for two successive
29 weeks previous to the day of election.

30 Such election shall be conducted in all things according to the
31 laws governing elections in force at the time said election is being
32 held and according to the provisions of the charter of the city.
33 All persons qualified to vote at other municipal elections in the
34 city shall vote at such elections as are herein mentioned.

35 The person voting for the ratification of any such ordinance shall
36 have written or printed on his ballot "for ratification" and the
37 person voting against ratification shall have written or printed on
38 his ballot "against ratification."

39 More than one ordinance may be submitted at any election, but
40 each ordinance shall be separately voted upon; any ordinance may
41 specify more than one purpose for which said bonds are to be
42 issued; *provided, however*, that the amount to be appropriated for
43 each purpose is also specified therein. The proclamation issued by
44 the mayor, as hereinbefore provided, shall specify the aggregate
45 amount of indebtedness, outstanding and authorized, of the city
46 existing at the date of the proclamation.

47 Bonds issued by the city shall be of the denomination of one
48 hundred dollars or multiples thereof, not exceeding one thousand
49 dollars. They shall be payable not less than one nor more than
50 thirty-four years after date. They shall bear not more than six
51 per cent interest and the interest shall be payable annually or
52 semi-annually. No debt shall be created by the city as a bonded
53 debt except when issued under the provisions of this charter.

54 It shall be unlawful for the officers of the city to privately
55 issue or sell directly or indirectly any bond or bonds to be used in
56 payment for work or materials to be furnished, but all such bonds
57 shall be publicly sold to the highest bidder in writing to be ap-
58 proved by the officers conducting the sale, for cash or its equivalent
59 in bonds previously issued by the city, and the money arising there-
60 from shall be used for the purpose specified in the ordinance pro-
61 viding for the issuing of same; before any sale of such bonds, said
62 sale shall be advertised in some newspapers, not exceeding four, in
63 or out of said city, once a week for four weeks previous to said sale.

64 The treasurer of the city of Wheeling and his sureties shall be
65 liable for the sinking fund and the amount levied for may be
66 levied for a sinking fund and to pay interest on the bonded debt,
67 and it shall be applied to the purposes for which it was levied or

68 for investment in United States bonds, or bonds of the city, as the
69 council may direct, to be used for the payment of principal and
70 interest of any bonded debt of the city.

71 Bonds of the city shall not be sold at less than their par value.
72 The council shall provide in its ordinance that bonds of the city
73 be signed by the mayor and city clerk and sealed with the seal of
74 the city.

75 Should any of the fund derived from the issuance and sale of
76 bonds of the city be diverted by the council or any officer or
77 officers of the city from the purpose for which said bonds were
78 issued and sold, such councilman or city officer using same or
79 consenting to or aiding in the use thereof for such other purpose,
80 shall be guilty of a misdemeanor and be punished by a fine of not
81 less than one hundred dollars nor more than five hundred dollars,
82 or by imprisonment for not less than thirty days nor more than
83 one year, or both fine and imprisonment.

84 The city may issue and sell its bonds for any of the purposes
85 authorized in sections twenty-nine, forty-eight, fifty and fifty-two
86 of chapter twenty-one (Municipal Charters) of the acts of one
87 thousand nine hundred and fifteen, passed by the legislature of
88 West Virginia, on February thirteenth, one thousand nine hun-
89 dred and fifteen. After the council shall have passed an ordinance
90 providing for the submission of a bond issue to the voters of the
91 city, the mayor, with the consent and approval of council, shall ap-
92 point a committee consisting of not less than five residents and cit-
93 izens of the city of Wheeling, which committee shall act in an ad-
94 visory capacity, with the city council in all matters relating to the
95 issuance and sale of such bonds, and in the awarding of contracts
96 and expenditures of the funds derived from a sale of such bonds.
97 The names of the members of such committee shall be published in
98 the proclamation issued by the mayor prior to the holding of the
99 election on any such bond issue.

Sec. 98. The city council is empowered to appoint a civil
2 service commission for the purpose of examining applicants for
3 positions in the police, fire, water and health departments. Said
4 commission shall consist of three citizens, not all of whom shall
5 be of one political party. Any vacancies occurring in the com-
6 mission shall be filled by council. For the purpose of conducting
7 tests in the departments specified they shall conduct practical
8 examinations annually or oftener, fixing grades and classifications

9 as they may determine, and a list of those successfully passing
 10 the examinations prescribed shall be furnished the city manager,
 11 Such list shall be known as the eligible list, and, unless for good
 12 cause shown, selections must be made from among the three appli-
 13 cants rated highest for the appointments necessary to be made.
 14 Said list and all examination papers shall be kept on file in the
 15 office of the city clerk and available to the public at all times;
 16 *provided*, that appointees in the departments under civil service
 17 may be subjected to examinations from time to time in the interest
 18 of efficiency, and that the passing of the required examinations
 19 prior to entering the city's employ shall not constitute a life tenure
 20 in office. No member of the civil service commission during his
 21 incumbency shall be holder of any state, county, or municipal
 22 office.

23 All parts of chapter twenty-one, acts of the legislature of West
 24 Virginia, of one thousand nine hundred and fifteen (*Municipal*
 25 *Charter*) and all amendments thereto, inconsistent or in conflict
 26 with this act are hereby repealed.

House Bill No. 16

(BY MR. WEISS)

[Introduced January 27, 1921; referred to the Committee on
 Medicine and Sanitation.]

A BILL to create and establish a state board of chiropractic examiners,
 to provide for the appointment of the members of the same, to
 authorize and regulate the practice of chiropractics, to provide
 for the licensing and examination of chiropractors, to establish
 rules and regulations governing said board, including the rules
 and regulations of examinations, to establish and define the
 duties, powers and privileges of chiropractors, to provide for the
 charging of examination fees and the disposition thereof and to

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fix penalties for the practice of chiropractics without a license
 and for the violation of any other provision in this act con-
 tained.

Be it enacted by the Legislature of West Virginia:

Section 1. That there is hereby created and established a board
 2 to be known by the name and style of "State board of chiropractic

3 examiners.* Said board shall be composed of three resident course
4 graduated practicing chiropractors of integrity and ability, who
5 shall be residents of the state of West Virginia.

Sec. 2. Within twenty days after this act shall be in effect the
2 West Virginia chiropractors' society shall submit to the governor
3 the names of ten resident course graduated practicing chiroprac-
4 tors, of integrity and ability, who shall be residents of the state
5 of West Virginia, and the governor shall, within thirty days after
6 the submission of such list, appoint three of the chiropractors,
7 whose names have been so submitted, to constitute the members of
8 said state board of chiropractic examiners. Said members shall be
9 so classified by the governor, at the time of their appointment, in-
10 dicating that the term of one shall expire in one year, one in two
11 years and one in three years from the date when this act takes
12 effect. Annually, thereafter, the governor shall appoint one mem-
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13 ber of said board and the member so appointed shall serve for a
14 period of three years. The governor shall also fill vacancies of said
15 board, caused by death or otherwise, as soon as practicable after
16 the occurrence of such vacancy.

Sec. 3. (a) Said board of chiropractic examiners shall con-
2 vene within thirty days after the appointment of the members
3 thereof, and elect a president, vice-president and secretary-tras-
4 urer from their membership.

5 (b) Said board shall hold sessions for the purpose of examina-
6 tion on the second Monday in January and the second Monday in
7 July, respectively, in each year, in the city of Charleston. Other
8 sessions of the said board, for purpose of examination, or for such
9 other purpose as to the said board may seem meet, may be held
10 at such times and places as may be by the said board fixed and
11 determined.

12 (c) Said board shall have authority to administer oaths, take
13 affidavits, summon witnesses and take testimony as to matters per-
14 taining to their duties. They shall adopt a seal, which shall be
15 affixed to all licenses issued by them, and shall from time to time
16 adopt such rules and regulations as they deem proper and necessary
17 for the performance of their duties, which shall be without preju-

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18 dice, partiality or discrimination as to the different schools of
19 chiropractics. The secretary of said board shall keep a record of

20 the proceedings of the board, which shall at all times be open to
21 public inspection. Said board shall keep also on file with the
22 secretary of state a copy of the rules and regulations for public
23 inspection, and shall elect annually a president, vice-president,
24 and secretary-treasurer. A majority of the board shall consti-
25 tute a quorum.

Sec. 4. Any person wishing to practice chiropractics in this
2 state, shall make application to said board of chiropractic exam-
3 iners, through the secretary-treasurer thereof. Such application
4 shall be in such form as the said board may direct. Each appli-
5 cant shall be a graduate of a chiropractic school or college, which
6 teaches a resident course of at least three years of six months each.
7 or the equivalent thereof, requiring active attendance upon the
8 same. Such qualification shall be set forth in the application, and
9 the said application shall be accompanied by a certificate from the
10 school or college attended by the applicant, which certificate shall
11 set forth in full the training of said applicant, showing his study.
12 his teachers, the branches studied and length of his clinical prac-
13 tice. The said board may, at its discretion, require of any or all
14 applicants satisfactory evidence of good moral character.

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15 Each application shall be accompanied with a fee of fifteen dol-
16 lars and such fee shall be in full for the examination. A further
17 fee of ten dollars shall, however, be required upon the issuance
18 of license.

Sec. 5. Upon receipt of an application the secretary-treasurer
2 of the board shall assign to such application a number, and the
3 applicant shall thereafter be designated by such number, and shall
4 so sign or mark his examination papers, so that the identity of
5 such applicant will not be discovered or disclosed to the members of
6 the board until after the examination papers are graded.

Sec. 6. All examinations shall be made in writing and shall
2 be upon the following subjects: Anatomy, physiology, symptom-
3 atology, chiropractic orthopedy, principles of chiropractic and ad-
4 justing, nerve tracing, chemistry, hygiene, bacteriology and chiro-
4 practics, and chiroparectic analysis as taught by chiropractics, and
5 chiropractic analysis as taught by chiropractic schools and col-
6 leges. A general average of seventy-five percent shall entitle an
7 applicant to a license, unless such applicant shall fail to answer
8 sixty per cent of the questions of any branch of said examination.

ENGROSSED

House Bill No. 139

A BILL to amend and re-enact section sixty-three of chapter two, of the acts of the legislature of one thousand nine hundred and nineteen, regular session, relating to display of the United States flag on school houses.

Be it enacted by the Legislature of West Virginia:

That section sixty-three of chapter two, of the acts of the legislature of one thousand nine hundred and nineteen, be amended and re-enacted so as to read as follows:

Section 63. The boards of education shall, out of the building funds of their respective districts, purchase United States flags, four by six feet, of regulation bunting, for school houses in their district, and require same to be displayed in or from the school house during the time the school is in session. And it shall be the duty of the teacher in charge of said building during the session to see that this flag is displayed in or from the school house as herein provided.

Sec. 64. The state superintendent of public schools shall issue annually to all teachers and principals in the public schools of this state, instructions, rules and regulations to be observed in the use and display of the United States and West Virginia state flags.

ENGROSSED

House Bill No. 204

(BY MR. MOORE, of Marshall)

A BILL to amend and re-enact section one-b of chapter one hundred and thirty-two of the acts of the legislature of West Virginia of the year nineteen hundred and nineteen, relating to the holding of terms of court in the second judicial circuit.

Be it enacted by the Legislature of West Virginia:

That section one-b of chapter one hundred and thirty-two of the acts

of the legislature of the year one thousand nine hundred and nineteen be amended and re-enacted so as to read as follows:

"Section 1-b. For the county of Marshall on the First Monday in 2 January, First Monday in May, and the First Monday in September. 3

4 "For the County of Wetzel on the Second Monday in February, 5 Second Monday in June, and the Second Monday in October.

6 "For the County of Tyler, on the Third Monday in March, 7 Third Monday in July and Third Monday in November.

8 "All acts or parts of acts in conflict herewith are hereby repealed." 9

House Bill No. 107

(BY MR. SHIFLET.)

[Introduced January 19, 1921; referred to the Committee on Labor.]
A BILL to amend and re-enact section sixty-seven, chapter thirty of the acts of the legislature of one thousand nine hundred and nineteen, relating to labor, so as to read as follows:

Be it enacted by the Legislature of West Virginia:

19 separate offense and be punishable as such.

Section 67. In all factories, mercantile establishments, mills 2 or workshops and in connection with all mines, adequate washing 3 facilities, including shower baths of an approved design, shall be 4 provided for the use of the persons employed therein and in addition thereto and in connection with the said washing facilities 6 there shall be established suitable dressing rooms with individual 7 lockers or compartments for the storing of clothing for the use of 8 each employee regularly employed in or by said factory, mine, 9 mercantile establishment or workshop. Both such dressing rooms 10 and washing facilities shall be separately maintained for each 11 sex.

12 *Provided, however,* that the provisions of this act so far as the 13 same relates to the establishment and maintenance of showers 14 baths shall not apply to factories, mercantile establishments,

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15 mills, or workshops where less than fifty persons are regularly employed 16 therein or in connection therewith.

N. B.

SENATE SUBSTITUTE FOR

House Bill No. 8

(FROM THE SENATE COMMITTEE ON FINANCE)

A BILL to authorize the prosecuting attorneys of the counties of McDowell, Mercer and Fayette to employ a stenographer, and the county court to make appropriation to pay for services of such stenographer.

Be it enacted by the Legislature of West Virginia:

The prosecuting attorneys of the counties of McDowell, Mercer and Fayette are authorized to employ a stenographer to assist him in his official duties, and the county court of said counties shall appropriate annually, payable out of the county treasury, not less than eighteen hundred dollars nor more than twenty-five hundred dollars, to pay the salary or compensation of such stenographer.

House Bill No. 103

(BY MR. HALL, of Wetzel.)

[Introduced January 19, 1921; referred to the Committee on the Judiciary.]

House Bill No. 103

A BILL to authorize the transfer of all the rights of the state of West Virginia in and to the property, claims and demands and taxes of municipal corporations whose charters have been or shall be declared forfeited by any circuit court.

Be it enacted by the Legislature of West Virginia:

That when the charter of any city, town or village shall have been declared forfeited and dissolved by the circuit court of any county under the provisions of section two of chapter forty-seven of the code of West Virginia, if said city, town or village, or a major part thereof in area or in population, shall, within one year

6 after the date of entry of such declaration by the circuit court, be
7 re-incorporated, with or without additional territory, the auditor of
8 the state of West Virginia shall convey unto such new incorpora-
9 tion all the rights of the state of West Virginia in and to the cor-
10 porate property, moneys, claims, demands and taxes, collected or
11 uncollected, of the former corporation so dissolved; *provided*, that
12 the said new incorporation shall assume and become liable for the
13 debts of the former corporation.

House Bill No. 481

(BY MR. WYATT.)

[Introduced January 26, 1921. Referred to the Committee on
Counties, Districts and Municipal Corporations.]

House Hill No. 481

A BILL to amend and re-enact chapter two of the acts of the legis-
lature for one thousand nine hundred and fifteen, regular session,
as codified under municipal charters, relating to the charter for
the city of Shinnston.

Be it enacted by the Legislature of West Virginia:

That chapter two of the acts of the legislature of West Virginia
for the year one thousand nine hundred and fifteen, as codified under
municipal charters be amended and re-enacted so as to read as fol-
lows:

Section 1. That the inhabitants of so much of the county of
2 Harrison as is within the bounds prescribed by section two of this
3 act, and their successors, shall be and remain, and they are hereby
4 made a body politic and corporate by the name of "The City of
5 Shinnston," and as such shall have perpetual succession and a
6 common seal and by that name shall sue and be sued, plead and
7 be impleaded, purchase, lease and hold real estate and personal
8 property necessary for the purpose of said corporation.

Sec. 2. The corporate limits of said city shall hereafter be as
2 follows:

House Bill No. 264

(BY MR. DOWNS)

[Introduced January 21, 1921; referred to the Committee on Roads and Internal Navigation.]

Senate Bill No. 216

(BY MR. HENSHAW.)

[Introduced January 24, 1921; referred to the Committee on the Judiciary.]

House Bill No. 264

A BILL to amend and re-enact section one hundred and seventeen of chapter sixty-six of the acts of the legislature of West Virginia for the year one thousand nine hundred and seventeen pertaining to motor vehicles.

Be it enacted by the Legislature of West Virginia:

That section one hundred and seventeen of chapter sixty-six of the acts of the legislature of West Virginia for the year one thousand nine hundred and seventeen, be amended and re-enacted so as to read as follows:

Section 117. For the purpose of this act, unless the same be
2 contrary to, and inconsistent with the context, the words and
3 phrases used in this act shall be construed as follows: "motor
4 vehicle" shall include all vehicles propelled by any power other
5 than muscular power, excepting such motor vehicles as run upon
6 rails and tracks, and tractors and traction engines used exclusively
7 for hauling threshing outfits, clover hullers, hay balers, binders
8 and other similar farming implements not designed for hauling
9 purposes, in which excepted cases no registration fee shall be
10 charged, and the state road commission of West Virginia shall re-

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11 fund any tax heretofore collected from the registration of such

12 motors or machinery as excepted by this amendment. "Closely
 13 built up" shall mean (a) the territory of a city, village or town
 14 contiguous to the public highway which is at that point
 15 built up with structures devoted to business; (b) the territory of
 16 a city, village or town, contiguous to a public highway not de-
 17 voted to business, where for not less than one-quarter of a mile,
 18 the dwelling houses on such highway average less than one hun-
 19 dred feet apart; and, also, (c) the territory outside of a city
 20 or village contiguous to a public highway within a distance of
 21 one-half mile from any post office; *provided*, that for a distance
 22 of at least one-quarter of a mile within such limits the dwell-
 23 ing houses on such highway average less than one hundred feet
 24 apart; and, *provided, further*, that the local authorities having
 25 charge of such highways shall have conspicuously placed thereon
 26 signs of a sufficient size to be easily readable by a person using
 27 the highway, bearing the words, "slow down," and also an ar-
 28 row pointing in the direction where the speed should be reduced.
 29 "Local authorities" shall include all officers of counties, cities,
 30 villages or towns, as well as all boards, committees, and other
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 31 public officials of such counties, cities, villages or towns. "Chauf-
 32 feur" shall mean any person operating a motor vehicle as me-
 33 chanic, employee or for hire.

House Bill No. 307

(BY MR. SANDERS.)

[Introduced January 26, 1921; referred to the Committee on the
 Judiciary.]

House Bill No. 307

A BILL to re-enact section one of chapter sixty-three, Barnes code.
Be it enacted by the Legislature of West Virginia:

That section one of chapter sixty-three of Barnes' code of West
 Virginia, be amended and re-enacted so as to read as follows:

Section 1. Every license for a marriage shall be issued by the
 2 clerk of the county court of the county in which the female to be

3 married, if under the age of twenty-one years, usually resides, but
4 if both parties to the marriage be twenty-one years of age or over,
5 whether residents or non-residents of this state, they may obtain
6 such marriage license in any county in this state on application to
7 the clerk of the county court.

and forty-nine of the code of West Virginia, concerning houses
of ill-fame and declaring such as common and public nuisances,
and providing for the abatement thereof.

Be it enacted by the Legislature of West Virginia:

That section ten of chapter one hundred and forty-nine of the code
of West Virginia, be amended and re-enacted so as to read as follows:

Section 10. If any person live, board or loiter in a house of
2 ill-fame, he shall be guilty of a misdemeanor, and fined not ex-
3 ceeding twenty-five dollars.

4 If any person keeps a house of ill-fame he shall be guilty of a
5 misdemeanor and fined not less than one hundred dollars and
6 not more than two hundred dollars, and in the discretion of the
7 court in addition thereto may be imprisoned in the county jail not
8 less than thirty days nor more than six months for each offense

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9 and for the purpose of this statute the term "house of ill fame"
10 shall be construed to mean and include a house occupied by one or
11 more women, who there indulge in illicit acts of prostitution with
12 numerous men; and every person who shall knowingly lease or
13 let to another any house or other building for the purpose of being
14 used or kept as a house of ill-fame, or if any person knowingly per-
15 mit any house owned by him or under his control, to be used or
16 kept as a house of ill-fame, he shall be punished as hereinbefore
17 provided for any person who keeps a house of ill-fame and each
18 day such house or other building is so used and kept shall consti-
19 tute a separate offence; and all leases and agreements for letting
20 such house or other buildings shall be void.

21 All such houses or other buildings used or kept as a house
22 of ill-fame, shall be held, taken and deemed common and public
23 nuisances. And any person who shall maintain, or shall aid or
24 abet, or knowingly be associated with others in maintaining such
25 common and public nuisances, shall be guilty of a misdemeanor,
26 and upon conviction thereof shall be punished by a fine of not less
27 than one hundred dollars nor more than two hundred dollars, and
28 in the discretion of the court may be imprisoned in the county

29 jail not less than thirty days, nor more than six months, for each
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30 offence, and judgment shall be given that such house or other
31 building, be abated or closed up as a house of ill-fame.

32 The prosecuting attorney, or any citizen of the county where
33 such a nuisance as is defined in this section is kept or maintained,
34 may maintain a suit in equity in the name of the state to abate
35 and perpetually enjoin the same, and courts of equity shall have
36 jurisdiction thereof. The injunction shall be granted at the com-
37 mencement of the action and no bond shall be required. It shall
38 not be necessary for the court to find that the house or other build-
39 ing involved was unlawfully used or kept as aforesaid at the
41 of the bill are true, the court shall order the nuisance abated
42 that neither the defendants, nor any one claiming possession of,
43 or leasing said house or other building shall thereafter use the
44 same for the purposes of maintaining therein a house of ill-fame.
45 Any person violating the terms of any injunction granted in
46 proceedings hereunder, shall be punished for contempt summarily
47 by the court, without the empaneling of any jury to try the
48 same, by a fine of not less than one hundred dollars nor more
49 than five hundred dollars, and in the discretion of the court may

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50 be imprisoned in the county jail not less than thirty days, nor
51 more than six months, in the discretion of the court, or the judge
52 thereof in vacation.

COMMITTEE SUBSTITUTE FOR

House Bill No. 36

(BY THE COMMITTEE ON THE JUDICIARY)

[April 11, reported from Committee and ordered printed.]

House No. Bill 36

A BILL to amend and re-enact section thirty-five of chapter thirty-
nine of the code of West Virginia, relating to financial statement
of county courts.

Be it enacted by the Legislature of West Virginia:

That section thirty-five of chapter thirty-nine of the code of
West Virginia be amended and re-enacted so as to read as follows:

Section 35. The county court of every county, within sixty days after the beginning of each fiscal year, shall file with the state tax commissioner, a county financial statement covering all funds disbursed by the sheriff during the preceding year, including county, district, school district and independent school district funds; and shall cause same to be published in at least two newspapers of opposite politics, if there is such, for one week, if any be published in the county, or if none be published therein, or if no paper will publish the same for the price fixed by law therefor, the same shall be posted at each voting place in the county. Such statement shall be certified to by the president and clerk of the county court under their official signatures, and said statement shall show under district heads all moneys received and disbursed,

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also shall show for each fund the cash balance, outstanding orders, outstanding bills, accounts or debts at both the beginning and end of year, and said statement shall be based upon orders issued and shall classify as to contracts, roads, bridges, buildings, offices, departments and purposes, said statement shall be in the form prescribed and approved by the state tax commissioner, *ex-officio* chief inspector and supervisor of public offices, said statement shall be prepared by the county clerk, *provided, however*, it shall be the duty of the county financial secretary to file with the county clerk within forty-five days after the end of the fiscal year a statement covering all school funds, which statement shall be used by the county clerk as a part of the county financial statement. Any clerk of the county court or county financial secretary, who shall, within the time prescribed, fail or refuse to perform the duties required by the provisions of this section shall be fined not less than one hundred dollars, nor more than five hundred dollars. And if a county court wilfully fail or refuse to perform the duties hereinbefore named, every member of such court, concurring in such failure or refusal, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars, nor more than two hundred dollars; and the H. B. No. 36]

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prosecuting attorney of any such county shall, when such failure or refusal shall come to his knowledge immediately present the evidence thereof to the grand jury if in session, and if not in session, he shall institute proper criminal proceedings before a jus-

38 tice against any such offender, and cause such failure or refusal to
39 be investigated by the next succeeding grand jury.

40 The cost of publication shall be paid out of the county fund for
41 all funds under the control of the county court and out of the
42 building fund of each school district for the school funds of the
43 district.
44

House Bill No. 525

(BY MR. BAKER.)

[Introduced January 26, 1921 referred to the Committee on the
Judiciary.]

House Bill No. 525

A BILL to amend and re-enact section one hundred and twenty-nine
of chapter twenty-nine of the code of West Virginia, relating
to relief against erroneous assessments.

Be it enacted by the Legislature of West Virginia:

That section one hundred and twenty-nine of chapter twenty-nine
of the code of West Virginia be, and the same is hereby amended and
re-enacted so as to read as follows:

Relief Against Erroneous Assessment.

Section 129. Any person being erroneously assessed or
2 claiming to be aggrieved by any land or personal prop-
3 erty book of any county who shall have appeared and
4 contested the same as provided in section eighteen of
5 this chapter, may, within thirty days from the adjournment of the
6 board of equalization and review, apply for relief to the circuit
7 court of the county in which such books are made out; but he shall,
8 before any such application is heard, give ten days' notice to the
9 prosecuting attorney of the county, whose duty it shall be to at-
10 tend to the interests of the state, county and district in the matter,
11 and the prosecuting attorney shall give at least five days' notice
12 of such hearing to the state tax commissioner; the right of appeal

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13 from any assessment by the board of review as hereinbefore pro-
14 vided, may be taken either by the applicant or by the state, etc.,

15 and in case the applicant, by his agent or attorney, or the state,
16 by its prosecuting attorney or state tax commissioner, desires to
17 take an appeal from the decision of the board of review, the party
18 desiring to take such an appeal shall have the evidence taken at
19 the hearing of such application before the board of review cer-
20 tified by said board, and such appeal when allowed by the court
21 or judge in vacation, shall have precedence over all other cases
22 pending in such court, and such appeal shall be determined from
23 the evidence so certified; if, upon the hearing of such application,
24 it is determined that any property has been assessed for more than
25 its true and actual value, the court shall, by an order entered of
26 record, correct every such assessment, fixing such property at its
27 true and actual value; a copy of such order or orders entered by
28 the circuit court reducing the valuation of any assessment shall,
29 unless an appeal be taken therefrom to the supreme court of
30 appeals, as herein provided, be certified to the auditor by the clerk
31 within twenty days after the entering of the same; every such
32 order or judgment shall show that the prosecuting attorney or
33 state tax commissioner was present and defended in the interest
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34 of the state, county and district. Either party may apply to the
35 supreme court of appeals for an appeal from any such order or
36 judgment within sixty days after the entering of the same, and
37 such appeal, when allowed, shall have precedence in such court
38 and shall be determined upon the original papers certified by the
39 board of review to the circuit court; except as herein otherwise
40 provided, such appeals shall be taken and heard as provided in
41 chapter one hundred and thirty-five of the code. In the event it
42 shall be ascertained that any land or personal property has been
43 assessed too high and that the owner has paid the excess tax, it
44 shall be refunded to him, and if not paid he shall be relieved from
45 the payment thereof; and in the event it is finally ascertained
46 that any property is assessed too low, the court shall, by an order
47 entered of record, correct every such assessment, fixing it at its
48 true and actual value. A copy of any order or orders entered by
49 any court increasing the valuation of any property shall, unless
50 an appeal be taken therefrom, as herein provided, be certified
51 within twenty days after the entering of same to the auditor, the
52 county clerk and the sheriff, and it shall be the duty of the audi-
53 tor, the county clerk and the sheriff to charge any taxpayer af-

54 fected by such order with the increase of taxes occasioned by the
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55 increase of such assessment by applying the rate of levies for every
56 purpose in the district where such property is situated for the cur-
57 rent year; such order shall also be filed in the office of the auditor
58 and clerk of the county court.

ENGROSSED.

House Bill No. 532

(BY MR. LYTLETON)

"A BILL relating to the salaries of county officers in Fayette county."
Be it enacted by the Legislature of West Virginia:

Section 1. That the salary of the prosecuting attorney of Fayette county shall be three thousand dollars per year, and he may employ a stenographer for his office at a salary not to exceed eighteen hundred dollars per year, payable monthly out of the county treasury.

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed.

House Bill No. 163

(BY MR. BAKER.)

[Introduced January 19, 1921; referred to the Committee on the Judiciary.]

House Bill No. 163

A BILL to amend chapter twenty-nine of the code of West Virginia, Barnes' Edition of one thousand nine hundred and eighteen, by inserting therein section eighteen-a, increasing the salary of members of boards of review and equalization from four to six dollars per day.

Be it enacted by the Legislature of West Virginia:

Section 18-a. For the year one thousand nine hundred and twenty-one, and until changed by law, the salary of each member of a board of review and equalization shall be six dollars per day for each day of not less than six hours that such board shall actually be in session, and such salary shall be provided for and paid out of the county levy for the current year, and shall be in lieu of the salary provided in section eighteen of this chapter.

All acts or parts of acts in conflict herewith are hereby repealed.

House Bill No. 52

(BY MR. VEACH)

[Introduced January 17, 1921; referred to the Committee on the Judiciary.]

A BILL relating to dogs, and the protection of livestock and poultry from damages by dogs; providing for the licensing of dogs; regulating the keeping of dogs, and authorizing their destruction in certain cases; providing for the protection of licensed dogs, and for dogs temporarily imported for trial, show and breeding purposes; prescribing certain privileges for hunting dogs, and providing for the assessment of damages done by dogs and payment thereof by the proper county to the owners of livestock and poultry, and of damages to licensed dogs; imposing powers and duties on state and county officers, and providing penalties.

Be it enacted by the Legislature of West Virginia:

Section 1. That this act shall be known and may be cited as "the dog law of one thousand nine hundred and twenty-one."

Sec. 2. For the purpose of this act the following terms shall have the following meanings respectively designated for each:

The term "livestock" shall include horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, calves, mules, jacks, jenets, burros, goats, kids and swine.

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The term "poultry" shall include all domestic fowls.

7 The word "person" shall include state and local officers or em-
8 ployes, individuals, corporations, co-partnerships and associations.
9 Singular words shall include the plural. Masculine words shall
10 include the feminine and neuter.

11 The word "owner" when applied to the proprietorship of a
12 dog shall include every person having a right of property in
13 such dog, and every person who keeps or harbors a dog or has
14 it in his care, and every person who permits such dog to remain
15 on or about any premises occupied by him.

Sec. 3: The term "kennel" shall mean any establishment where-
2 in or whereon dogs are kept for the purpose of breeding, sale,
3 or sporting purposes.

4 The term "police officer" shall mean any person employed or
5 elected by this state, county, district, or municipality, and whose
6 duty it is to preserve peace or to make arrest or to enforce the
7 law. The term includes game and fish wardens.

Sec. 4. On or before the fifteenth day of July, one thousand
2 nine hundred and twenty-one, and on or before the fifteenth day
3 of July of each year thereafter, the owner of any dog six months
4 old or over shall apply to the county clerk either orally or in
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5 writing, for a license for each such dog or kept by him. Such
6 application shall state the breed, sex, age, color, and markings
7 of such dog, and the name and address of the last previous owner,
8 and shall be accompanied by a fee of two dollars for each male
9 dog and each spayed female dog; and by a fee of four dollars
10 for each unspayed female dog; and for each additional male
11 dog, or each additional spayed female dog a fee of four dol-
12 lars, and by a fee of eight dollars for each additional unspayed
13 female dog.

Sec. 5. Such license shall be issued on a form prepared and
2 supplied by the county commissioners. Such license shall be
3 dated and numbered, and shall bear the name of the county is-
4 suing it and a description of the dog licensed. All licenses
5 shall be void upon the fifteenth day of July of the following year.
6 The county commissioners shall also furnish, and the county clerk
7 shall issue with each license, a metal tag. Such tag shall be affixed
8 to a substantial collar. The collar shall be at all times kept
9 on the dog for which the license was issued, except when confined
10 in a kennel.

Sec. 6. The county commissioners shall prepare and furnish
2 annually to the county clerk metal tags to be given by the county
6 [H. B. No. 52
3 clerk to the owners of dogs when such owners shall pay the
4 license fee for said dogs. Such tags shall bear the name of the
5 county issuing it, and a serial number corresponding with the
6 number on the license issued to said owner, as provided in the
7 preceding section of this act. Such tags shall also have impressed
8 thereon the calendar year for which such tag was issued, and shall
9 not be more than one inch in length, and shall be equipped with
10 a substantial metal fastening device. The general shape of said
11 tag shall be changed from year to year.
12 If any such tag is lost it shall be replaced by the county clerk
13 upon application by the person to whom the original license was
14 issued, and upon production of said license, and the payment of
15 fifty cents for said replaced tag.

Sec. 7. Any justice of the peace within the county who has
2 qualified by having applied to the county clerk and having re-
3 ceived and receipted for necessary blanks and tags, may issue such
4 dog licenses and tags in like manner as prescribed for the is-
5 suing of licenses by the county clerk. When a license is issued
6 by a justice of the peace, the person applying for the license
7 shall pay fifteen cents to said justice in addition to other fees
8 prescribed as the cost of said license. Said fifteen cents shall
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9 day of January of any year the license fee shall be, for each
10 male or spayed female dog one-half the amount as the annual
11 license for male or spayed female dogs; and for each unspayed
12 female dog, one-half of the annual license for unspayed female
13 dogs.

Sec. 9. No license or license tag issued for one dog shall be
2 transferable to another dog, except as provided in sections eleven
3 and twelve of this act. Whenever the ownership or possession of
4 any dog is permanently transferred from one person to another
5 within the same county, the license of each dog may be likewise
6 transferred upon notice given to the county clerk. This act does
7 not require the procurement of a new license, or the transfer of
8 a license already secured, when the possession of a dog is tem-
9 porarily transferred for the purpose of hunting game, or for
10 breeding, trial or show in the state.

Sec. 10. Whenever any dog licensed in one county is permanently removed to another county, the county clerk of the county where the license was issued shall, upon application of the owner or keeper of such dog, certify such license to the county clerk of the county to which the dog is removed. Such clerk shall thereupon, and upon the payment of a fee of twenty-

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be retained by the justice of the peace as his fee for the issuing of said license and reporting the same and remitting payment thereof to the county clerk. Such report and remittance shall be made on or before the fifteenth day of July of the year for which said license was issued; whereupon the county clerk shall make a record of, and treat said license as though it had been issued from his office, except that he shall also note upon his record the name of the justice issuing the license.

Every justice of the peace shall deliver the book or books from which he has issued licenses, together with the stubs therein properly filled out and showing the names of each licensee and the number of the license issued to him to the county clerk on or before the fifteenth day of July of each year.

Sec. 8. Any person becoming the owner, after the fifteenth day of July of any year, of any dog six months old or over which has not already been licensed, or any person owning or keeping a dog which becomes six months old at any time after the fifteenth day of July of any year, shall forthwith apply for and secure a license for such dog in the same manner as the annual license is obtained under the provisions of this act. If any such application is made at any time after the fifteenth

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five cents, issue a license and tag for such dog in the county to which it is removed.

This section does not apply to dogs used during the hunting season for hunting game, or temporarily for breeding, trial or show, in the state; nor for the transportation of dogs for hunting, breeding, trial, or show purposes, the home county license holding good for such purposes throughout the state.

Sec. 11. Any person who keeps or operates a kennel may, in lieu of the license for each dog required by this act, apply to the county clerk for a kennel license entitling him to keep or operate such kennel. Such license shall be issued by the county

5 clerk upon a form prepared and supplied by the county com-
6 missioners, and shall entitle the licensee to keep any number of
7 dogs six months old or over, not at any time exceeding a certain
8 number to be specified in the license. With each kennel license
9 the county clerk shall issue a number of metal tags equal to the
10 number of dogs authorized to be kept in the kennel. All such
11 tags shall bear the name of the county issuing it, the number of
12 the kennel license, and shall be readily distinguishable from the
13 individual license tags for the same year.

Sec. 12. The licensee of a kennel shall at all times, keep one of

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2 such tags attached to a collar on each dog six months old or
3 over, kept by him under a kennel license. Such tags may be
4 transferred from one dog to another within the kennel whenever
5 any dog is removed from the kennel. No dog bearing a kennel
6 tag shall be permitted to stray or to be taken any where outside
7 the limits of the kennel.

8 This section does not prohibit the taking of dogs having a
9 kennel license outside the limits of the kennel temporarily and
10 in leash, nor does it prohibit the taking of such dogs out of the
11 kennel temporarily for the purpose of breeding, hunting, trial
12 or show.

Sec. 13. Any person may bring or cause to be brought into
2 the state for a period of thirty days one or more dogs for show,
3 trial or breeding purposes.

Sec. 14. The county clerk shall keep a record of all dog li-
2 censes, and all permits issued during the year. Such record
3 shall contain the name and address of the person to whom each
4 license or permit is issued. In the case of an individual license
5 the record shall also state the breed, sex, age, color and markings of
6 the dog licensed; and in the case of a kennel license, it shall state
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7 the place where the business is conducted. The record shall be
8 a public record and open to persons interested, during business
9 hours.

10 Whenever the ownership or possession of any dog licensee
11 under the provisions of this act is transferred from one person
12 to another, except the temporary transfer of dogs for hunting
13 purposes, or for breeding trial, or show, as provided in section

14 nine of this act such transfer shall be noted on the record of the
15 county by the county clerk.

Sec. 15. An accurate record of all license fees collected by
2 the county clerk, or paid over to him by any justice of the peace,
3 shall be kept as a matter of information; but all such funds shall
4 be turned into the county funds, and excess moneys collected un-
5 der this act shall be used for other county purposes.

Sec. 16. The assessor shall annually, on or before the thir-
2 teenth day of June, make a complete report on a blank form
3 furnished by the county commissioners, to such commissioners,
4 setting forth the name of every owner of any dog or dogs, how
5 many of each sex are by him owned or harbored, and if a
6 kennel is maintained by any person such fact shall also be
7 stated. It shall be the duty of the assessor, at the time of making

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8 the assessment to notify the owner of such dog that he must
9 obtain a license for the same as provided for in this act; but
10 the neglect or failure so to notify such owner shall not relieve
11 the owner from his duty to obtain such license.

Sec. 17. On and after the fifteenth day of July, one thousand
2 nine hundred and twenty-one, it shall be unlawful for any per-
3 son to own or keep any dog six months old or over unless such
4 dog is licensed by the clerk of the county in which the dog is
5 kept; and unless such dog at all times wears the collar and tag
6 provided for by this act, unless such dogs are temporarily brought
7 into the state for breeding, trial, or show purposes.

Sec. 18. It shall be the duty of every peace officer to seize
2 and detain any dog or dogs which bear a proper license tag, and
3 which are found running at large and unaccompanied by its
4 owner or keeper. It shall be the duty of every peace officer to
5 kill any dog which does not bear a proper license tag, which is
6 found running at large. The chief of police or his agents of
7 any city, the constable or justice of any magisterial district in
8 this state shall cause any dog bearing a proper license tag and
9 detained to be properly kept and fed, and shall cause immediate
10 notice either personal or by registered mail, to be given to the
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11 person in whose name the license was procured, or his agent
12 to claim such dog within ten days. The owner of a dog so
13 detained shall pay all reasonable expenses incurred by reason

14 of its detention under the provisions of this section, before the
15 dog is returned.

Sec. 19. If after ten days from the giving of such notice
2 such dog has not been claimed such chief of police or his agent,
3 constable, or justice of the peace shall dispose of such dog by
4 sale, or by destruction in some humane manner. No dog so
5 caught and detained shall be sold for the purpose of vivisection.
6 All moneys derived from the sale of such dog after deducting the
7 expenses of its detention shall be paid to the county sheriff and
8 by him placed to the county fund. For services under section
9 eighteen and nineteen of this act, such officers shall be paid the
10 sum of one dollar for the killing of a dog. All expenses incurred
11 under this or the preceding section and not otherwise provided
12 for, shall be paid by the proper county.

Sec. 20. For failure to perform his duty under the pro-
2 visions of this act such officers shall be liable to a penalty of five
3 dollars for such offense, which amount shall be deducted from any

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4 amount due such officer from the county, at any settlement
5 between such officer and the county commissioners.

Sec. 21. Any person may kill any dog which he sees in the
2 act of pursuing, worrying, or wounding any livestock, or at-
3 tacking human beings, whether or not such dog bears the license
4 tag required by the provision of this act. There shall be no
5 liability on such person in damages or otherwise for such kill-
6 ing.

7 Any unlicensed dog that enters any field shall constitute a
8 private nuisance, and the owner or tenant of such field, or agent
9 or servant may kill such dog while it is in the field, without
10 liability or responsibility of any nature for such killing.

11 Licensed dogs when accompanied by their owner or handler
12 shall not be included under the provision of this section, unless
13 caught in the act of worrying, wounding, or killing any live-
14 stock, or attacking human beings.

Sec. 22. All dogs are hereby declared to be personal property
2 and subject to larceny. Except as provided in section twenty-
3 one of this act it is unlawful for any person except a police
4 officer, to kill, injure, or poison, or attempt to kill, injure or
5 poison any dog which bears a license tag for the current year.

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6 It is unlawful for any person to place any dog button, or
7 any poison of any description, in any place on his own premises
8 or elsewhere where it may be easily found and eaten by dogs.

9 It shall be unlawful for any person except the owner or au-
10 thorized agent to remove any license tag attached thereto from
11 any dog.

12 It shall be unlawful for any person to harbor or permit to
13 remain about his premises any dog not having a license.

Sec. 23. It is unlawful for the owner or keeper of any fe-
2 male dog to permit such female dog to go beyond the premises
3 of such owner or keeper at any time when she is in heat unless
4 such female dog is held properly in leash.

Sec. 24. The owner or keeper of every dog shall at all times,
2 between sunset and sunrise of each day, keep such dog, either
3 (a) confined within an enclosure, from which it can not escape, or
4 (b) firmly secured by means of a collar and chain or other de-
5 vice, so it cannot stray beyond the premises on which it is
6 secured or (c) under the reasonable control of some person, or
7 when in lawful hunting accompanied by the owner or handler.

Sec. 25. Whenever any person sustains any loss or damage to
2 any livestock or poultry by dogs, or any livestock of any person

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3 necessaril destroyed because of having been bitten by a dog,
4 such person or his agent or attorney, may complain to any
5 justice of the peace of any district of the county. Such com-
6 plaint shall be in writing, shall be signed by the person making
7 such complaint, and shall state when, where and how such dam-
8 age was done, and by whose dog or dogs if known. Such justice
9 of the peace shall at once examine the place where the alleged
10 loss or damages was sustained and the livestock or poultry in-
11 jured or killed, if practicable. He shall also examine under
12 oath or affirmation, any witness called before him. After mak-
13 ing diligent inquiry in relation to such claim, such justice shall
14 determine whether any damage has been sustained and the amount
15 thereof, and if possible, who was the owner of the dog or dogs
16 by which such damage was done.

17 Any owner or keeper of such dog or dogs shall be liable to
18 the owner of such livestock or poultry in a civil action for all
19 damages and cost, or to the county to the extent of the amount
20 of damages paid by such county as hereinafter provided.

Sec. 26. Upon making the examination required in section 2 twenty-five of this act, the justice shall immediately make a 3 certificate thereto, signed and sealed by him that such appraise-
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4 ment has been regularly and duly made. If by such exam-
5 ination it appears that any damage has been sustained by the
6 complainant the justice shall deliver the report of such exam-
7 ination, and all papers relating to the case, to the claimant,
8 or his agent or attorney, upon payment of the costs up to that
9 time. Such report shall be delivered to the county commis-
10 sioners to be filed in their office.

Sec. 27. Justices of the peace for the special services required
2 under sections twenty-five and twenty-six of this act, shall re-
3 ceive two dollars for each case, and five cents per mile traveled,
4 to be paid by the claimant in each case. In all cases where
5 damages are awarded, the fees paid claimants shall be included
6 in the amount of such damages.

Sec. 28. Upon the commissioners of the county receiving such
2 report, if it appears thereby that a certain amount of damages
3 has been sustained by the claimant, they shall immediately draw
4 their order on the sheriff of the county in favor of the claimant
5 for the amount of loss or damage such claimant has sustained
6 according to such report, together with the necessary and proper
7 costs incurred. No person shall receive any order for any claim
8 until the justice of the peace before whom the claim was made
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9 has certified that due diligence was made to ascertain whose dog
10 or dogs did the damage. The owner of any livestock necessarily
11 destroyed because of having been bitten by a dog, shall be paid
12 for burial of such live stock killed, such compensation as the
13 justice of the peace may deem proper, which shall not exceed
14 one dollar per head. Upon payment by the county of damages
15 to livestock or poultry by dogs, the rights of the owner of such
16 livestock or poultry against the owner of the dog, to the extent
17 of the amount of damages so paid by the county shall inure to
18 the benefit of the county; and shall be the duty of the prosecuting
19 attorney of the county to at once proceed against the owner
20 of the dog by civil action in the name of the county to recover
21 the amount of such claim so paid by the county, together with
22 the costs in any court having jurisdiction to try the case.

Sec. 29. No payment shall be made for any item which has already been paid by the owner of the dog or dogs doing the injury. The fact that no such payment has been made shall be certified by the justice of the peace. When any payment is made by the county for any livestock bitten by a dog, such payment shall not exceed one hundred dollars for each horse or mule, forty dollars for each head of cattle, six dollars for

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each head of swine, and six dollars for each head of sheep.

Sec. 30. Any valid claims or parts thereof for loss or damages for sheep, horses, cattle or swine which have accrued under any general or local laws at any time prior to the passage of this act, shall not abate by reason of the repeal of such general or local act but shall be paid out of the proper fund of the county.

All claims or parts thereof remaining unpaid for any reason at the close of any year shall not abate, but shall continue as claims until paid in full.

Sec. 31. If in the report of the justice of the peace the name of the owner of any dog or dogs having caused loss or damage to any livestock is definitely and conclusively shown, the county commissioners shall notify such owner or keeper immediately to kill said dog or dogs. Upon failure of said owner to comply with said order within a period of ten days after receiving said notice, the chief of police of any incorporated town or city or his agent, the constable of the district, in which said dog or dogs were kept, shall upon notice being given by the county commissioners, kill said dog or dogs wherever found. For such services he shall be entitled to one dollar for each dog killed to

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be paid by the proper county upon a certified statement to the commissioners that such dog or dogs have been killed. The county commissioners shall issue an order on the county sheriff for such amount unless payment has been made by the owner or keeper of said dog or dogs, the county shall proceed to collect such amounts so paid against the owner in the same manner as is provided in section twenty-eight of this chapter for recovery of damages. *Provided, however,* that the owner or keeper of any licensed dog or dogs that have caused loss or damage to poultry

21 shall not be obliged to kill said dog or dogs unless said dog or
22 dogs are mad, but shall be liable for said loss or damage.

Sec. 32. It is unlawful for any person knowingly to make
2 any false statement or to conceal any fact required to be dis-
3 closed under any of the provisions of this act.

Sec. 33. In any proceedings under this act the burden of proof
2 of the fact that a dog has been licensed or has been imported for
3 breeding, trial, or show purposes, or that a dog is under the age
4 of six months, shall be on the owner of such dog.

5 Any dog not bearing a license tag shall *prima facie* be deemed
6 to be unlicensed.

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4 in this act shall interfere with any law for the protection or
5 preservation of game. Except where such acts or parts of acts
6 are specifically repealed, this act does not repeal or affect
7 parts of acts relating to mad dogs or dogs affected with any
8 disease.

Sec. 37. Nothing in this act shall be construed to prevent
2 the owner of a licensed dog from recovery by action at law, the
3 value of any dog which dog has been illegally killed by any
4 police officer, farmer, stockman or other person within this state.
5 The value of said dog shall be ascertained in the same manner
6 and form as provided in section twenty-five of this act for as-
7 sessing damages done to livestock by dogs.

8 Nothing in this act shall be construed as to prevent the killing
9 of dogs by any officer empowered to enforce the game laws of the
10 state when said dogs are pursuing game during the closed sea-
11 son for the training of dogs on game; *provided, however*, that the
12 said dogs are not under the immediate control of their owners
13 or keepers. And also provided that legal notice has been previous-
14 ly given said owner or keeper as required by the game laws of
15 this state.

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Sec. 34. The commissioner of agriculture through his offi-
2 cers and agents, shall have the general supervision over the
3 licensing and the regulations of dogs and protection of livestock
4 and poultry from damage by dogs in all counties in the state.
5 The commissioners of each county shall enforce within their
6 respective jurisdiction the provisions of this act. To this end
7 the commissioner of agriculture may employ all proper means

8 for the enforcement of this act. Any other state department,
9 bureau or commission, may on request of the commissioner of
10 agriculture, assist in the enforcement of the provisions of this
11 act.

Sec. 35. Any person violating, or failing or refusing to com-
2 ply with any of the provisions of this act shall be guilty of a
3 misdemeanor, and upon conviction shall be sentenced to pay a
4 fine not exceeding one hundred dollars or to undergo imprison-
5 ment not exceeding three months at the discretion of the court.

6 All fines collected under the provisions of this act shall be
7 forthwith paid to the sheriff of the proper county.

Sec. 36. This act is intended as a complete and uniform sys-
2 tem throughout the state for the licensing of dogs and the protec-
3 tion of livestock and poultry from injury by dogs; but nothing
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Sec. 38. In the event that any one or more of the provisions
2 of this act should be decided to be unconstitutional, the courts
3 decision holding the same unconstitutional shall not affect the
4 validity of the remaining provisions of the act, it being the
5 intention of the legislature that the provisions of the act are
6 severable.

Sec. 39. All acts or parts of acts in conflict with this act
2 are hereby repealed.

AMENDMENT AND SUPPLEMENT TO THE

BUDGET BILL

[Submitted by the board of public works, April 22, 1921, ordered
printed and referred to the Committee on Taxation and Finance.]

Revenue Required to Meet Deficit and "Amended Budget Bill."

State Fund

General Revenue

The following figures are based upon appropriations carried by the
2 "Budget Bill" as amended by the supplement which is submitted at
3 this time.

Current Year Ending June 30, 1921.

Estimated deficit July 1, 1921 as shown by the original "Budget" page 13	1,326,182.30
This "supplement" carries additional appropriations payable during the current year aggregating	310,624.11

Total estimated deficit July 1, 1921 based upon the amended "Budget Bill"	\$1,636,806.41
If the oil and gas transportation tax is finally sustained by the courts, the state will receive for the period prior to July 1, 1921, an approximate amount of	800,000.00
The deficit, July 1, 1921 will be then reduced to	\$ 836,806.41

Year Ending June 30, 1922 and Year Ending June 30, 1923.

The amended "Budget Bill" carries appropriations ..

for the year ending June 30, 1922 aggregating ..	8,997,582.46
The amended "Budget Bill" carries appropriations for the year ending June 30, 1923 aggregating	9,299,700.00

2

Total general revenue appropriations carried by amended "Budget Bill" for two years ending June 30, 1923	18,297,282.46
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Estimated receipts for the two years ending June 30, 1923 including maximum levy of 10 cents and \$400,000.00 annually under oil and gas transportation tax law (See page 22 of Budget for detail)	8,284,000.00
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Excess of appropriations over revenue provided by laws in effect prior to 1921 session of legislature or the amount necessary to be provided by the present legislature to cover the general revenue appropriations carried by the "amended Budget Bill" for the two years ending June 30, 1923,	10,013,282.46
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One half of the above amount of \$10,013,282.46 is to be raised each year or \$5,006,641.23 annually,

If the oil and gas transportations tax law is not sustained by the courts the above amount will be increased \$800,000.00 and will total \$10,813,282.46 for two years or \$5,406,641.23 annually,

24 The above figures include \$3,000,000.00 for new capitol and
 25 office building but do not include any expenditures for roads or
 26 road bonds, if it is desired to increase the state road fund in ad-
 27 dition to the revenue provided by licenses and federal aid, the
 28 increase will have to be provided for in addition to the amount of
 29 \$10,013,282.46.

SUMMARY.

To have revenue to meet the present deficit and the appropriations
 2 carried by the amended "Budget bill" the present legislature
 3 must provide new or additional revenue as follows:

4 *To meet the deficit July 1, 1921	836,806.41
5 For the year ending June 30, 1922	5,006,641.23
6 For the year ending June 30, 1923	5,006,641.23

7	Total	\$10,850,088.87
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8 If the oil and gas transportation tax law is not
 9 sustained by the courts the above amounts will be
 10 increased and be as follows:

11 *To meet the deficit July 1, 1921	1,636,806.41
12 For the year ending June 30, 1922	5,406,641.23
13 For the year ending June 30, 1923	5,406,641.23

14	Total	\$12,450,088.87
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15 *The deficit July 1, 1921 probably will be less, ac-
 16 count increase in revenue for present year over
 17 estimate, in which event the state would have a
 18 small surplus July 1, 1921, if the deficit is pro-
 19 vided for.

20 The deficit should be met by revenue raised un-
 21 der a law, the legality of which is unquestioned,
 22 as the revenue must be certain and be promptly
 23 provided.

24 The Budget Bill and proposed supplement 25 heretofore submitted carried general revenue ap- 26 propriations for the two years ending June 30, 27 1923, aggregating	11,546,432.46
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28 The amended Budget Bill now submitted carries

29	general revenue appropriations for two years,	
30	ending June 30, 1923, aggregating	18,297,282.46
		<hr/>
31	Increase	\$ 6,750,850.00
32	The increases may be classified as follows:	
33	General revenue aid to "General school fund"	
34	to carry out the provisions of new laws	2,200,000.00
35	New capitol and office building	3,000,000.00
36	Aid to world war soldiers, sailors and marines..	100,000.00
36-a	Appropriation for militia	120,000.00
37	Increase in appropriation for department of pub-	
38	lic safety account amended law	800,000.00
39	Additional buildings and land	300,000.00
40	Sundry increases to comply with provisions of	
41	new laws	158,850.00
42	Other sundry purposes	72,000.00
		<hr/>
	Total	\$ 6,750,850.00

First amendment and supplement to the "Budget Bill", in accordance with the provisions of the amendment to the constitution of the state of West Virginia, known as the "Budget amendment."

Sec. 4, line 2, strike out the figures "4,500.00—4,500.00" and insert in lieu thereof the figures "5,000.00—5,000.00."

Sec. 4, line 3, strike out the figures "3,500.00—3,500.00" and insert in lieu thereof the figures "5,000.00—5,000.00."

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Sec. 4, line 4, strike out the figures “4,500.00—4,500.00” and insert in lieu thereof the figures “5,000.00—5,000.00.”

Sec. 4, line 6, strike out the figures "4,000.00—4,000.00" and insert in lieu thereof the figures "5,000.00—5,000.00."

Sec. 4, line 7, strike out the figures “4,000.00—4,000.00” and insert in lieu thereof the figures “5,000.00—5,000.00.”

Sec. 4, line 8, strike out the figures "1,800.00—1,800.00" and insert in lieu thereof the figures "3,000.00—3,000.00."

Sec. 4, line 10, strike out the figures “4,000.00—4,000.00” and insert in lieu thereof the figures “6,000.00—6,000.00.”

Sec. 4, line 20, strike out the figures “3,500.00—3,500.00” and insert in lieu thereof the figures “5,000.00—5,000.00.”

Sec. 4, line 32, after line 32 insert the following: "salary of the state commissioner of prohibition 3,750.00—5,000.00."

Sec. 4, line 36, strike out the figures "128,000.00—128,000.00" and insert in lieu thereof the figures "125,500.00—125,500.00."

Sec. 6, line 14, after line 14 insert the following: "to replace lost books destroyed by fire 4,000.00— 0.00."

Sec. 10, line 3, strike out the figures "15,000.00—15,000.00" and insert in lieu thereof the figures "17,400.00—17,400.00."

Sec. 14, line 5, strike out the figures "65,000.00—65,000.00" and insert in lieu thereof the figures "85,000.00—85,000.00."

Sec. 16, line 2, strike out the word "nineteen" and insert in lieu thereof the word "twenty-two."

Sec. 16, line 3, strike out the figures "57,000.00—57,000.00" and insert in lieu thereof the figures "66,000.00—66,000.00."

Sec. 16, line 7, strike out the figures "20,000.00—20,000.00" and insert in lieu thereof the figures "22,000.00—22,000.00."

Sec. 17, line 1, strike out the word "three" and insert in lieu thereof the word "four."

Sec. 17, line 7, strike out the figures "6,000.00—6,000.00" and insert in lieu thereof the figures "7,500.00—7,500.00."

Sec. 17, line 3, strike out the figures "10,500.00—10,500.00" and insert in lieu thereof the figures "14,000.00—14,000.00."

Sec. 25, line 13, strike out the figures "9,600.00" and insert in lieu thereof the figures "12,800.00."

Sec. 68, line 9, strike out the figures "225,000.00—225,000.00" and insert in lieu thereof the figures "500,000.00—750,000.00."

Sec. 68, line 9, insert after the figures "1919" the following: "as amended and re-enacted."

5

Sec. 70, line 5, strike out the words "July 1, 1921" and the figures "8,750.00" and insert in lieu thereof the figures "15,000.00."

Sec. 71, line 5, strike out the words "to July 1, 1921" and the figures "27,416.66" and insert in lieu thereof the figures "47,000.00."

Sec. 72, line 6, strike out the figures "50,000.00" and insert in lieu thereof the figures "125,000.00."

Sec. 75, line 11, insert after line 11 the following: "to pay the cost of distribution of bills and journals to be disbursed on requisition of the secretary of state—19,000.00."

Sec. 75, line 20, insert after line 20 the following: "deficiency appropriation to pay current general expenses in office of commissioner of banking for remainder of year ending June 30, 1921—600.00."

Traveling expense commissioner of banking and assistants for remainder of year ending June 30, 1921—1,800.00."

Sec. 75, line 27, strike out the figures "12,000.00" and insert in lieu thereof the figures "25,000.00."

Sec. 75, line 33, strike out the figures "25,000.00" and insert in lieu thereof the figures "30,000.00."

And insert after the word "fire," the following: "including cost of proof reading."

Sec. 75, lines 34, 35 and 36, strike out the words "in the same manner as the appropriation for printing and binding current reports" and insert in lieu thereof the following: "On requisition of the attorney general."

Sec. 75-a, line 57, insert after the word "works" the following: "and to continue in effect until the litigation is finally determined."

Sec. 75-a, line 74, insert after the word "works" the following: "and to continue in effect until the litigation is finally determined."

Sec. 75-a, line 79, strike out the figures "125,000.00" and insert in lieu thereof the figures "225,000.00."

And insert after the word "same" the following: "including furniture, rugs, file cases, typewriters, adding machines and other office equipment."

Sec. 75-a, line 84, strike out the figures "50,000.00" and insert in lieu thereof the figures "75,000.00."

Sec. 75-a, line 109, insert after line 109 the following: "to supplement the appropriation for salaries for the judges of the circuit courts for the remainder of the year ending June 30, 1921, so as to pay additional salary from January 1, 1921 account changes caused by 1920 census—500.00."

To supplement appropriation for salary of the auditor for remainder of year ending June 30, 1921, account change in salary March 4, 1921—\$163.80.

To supplement appropriation for salary of the treasurer for remainder of year ending June 30, 1921, account change in salary March 4, 1921—485.79.

To supplement appropriation for salary of the attorney general for remainder of year ending June 30, 1921, account change in salary March 4, 1921—323.85.

To supplement appropriation for salary of the secretary of state for remainder of year ending June 30, 1921, account change in salary March 4, 1921—323.85.

To supplement appropriation for salary of the commissioner of agriculture for remainder of year ending June 30, 1921, account change in salary March 4, 1921—323.85.

To supplement appropriation for salary of the state tax commissioner for remainder of year ending June 30, 1921, account change in salary—388.88.

Deficiency appropriation to pay criminal charges for remainder of year ending June 30, 1921—35,000.00.

Supplement for appropriation for current general expenses of the supreme court of appeals on account of payments made for state board of law examiners for remainder of year ending June 30, 1921—600.00.

To purchase fire proof file cabinets for card records furnished by federal government showing record of West Virginians who served in the World War—1,000.00.

To pay A. A. Lilly for services rendered and expenses incurred March 5, 6, 7, 1917, in the supreme court of the United States at Washington, in filing the return of West Virginia in the case of Virginia vs. West Virginia in the mandamus proceedings before said court at Washington, pursuant to the direction of the governor and employment in that regard—500.00.

To pay Edward F. Diehl for expenses incurred as assistant to commissioner of banking in March, 1919—74.68.

To pay the widow of Charles Walker, who was killed January 3, 1921, in the state house fire. This appropriation to be paid at the rate of \$50.00 per month beginning January 1, 1921, on the requisition of the state auditor—1,500.00.

To pay Earl R. Buffington account hospital bill and time lost

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resulting from injuries received last Thanksgiving day when bleacher stand collapsed at foot ball game Marshall college—80.57.

To pay Bessie Dey Arnett account hospital and medical bills result-

ing from injuries received last Thanksgiving day when bleacher stand collapsed at foot ball game Marshall college—125.50.

To cover the cost of preparing an "index to land grants" in accordance with House Bill 194 and Senate Bill 276, this appropriation to be disbursed on requisition of the auditor and to continue into effect until the work is completed—4,000.00.

Sec. 77, line 7, strike out the figures "15,000.00—15,000.00" and insert in lieu thereof the figures "18,00.00—18,00.00."

Sec. 77, line 19, strike out the figures "5,000.00—4,000.00" and insert in lieu thereof the figures "6,000.00—6,000.00."

Sec. 77, line 25, insert after line 25 the following: "salaries, traveling expenses and other necessary expenses connected with sanitary inspection; the institution and carrying out of a system of physical education; the preparation, inspection and approval of plans for school buildings and for the teaching of thrift and Americanization—10,000.00—10,000.00."

Sec. 77, line 31, strike out the figures "2,500.00—2,500.00" and insert in lieu thereof the figures "3,500.00—3,500.00"

Sec. 77, line 39, strike out the figures "160,000.00—166,000.00" and insert in lieu thereof the figures "176,000.00—182,000.00."

Sec. 77, line 55-a, strike out the words "Smith-Hughes act."

Sec. 77-b, line 2, strike out the figures "333,33" and insert in lieu thereof the figures "323.85."

Sec. 77-b, line 3, strike out the figures "1,500.00" and insert in lieu thereof the figures "1,800.00."

Sec. 79, line 24, strike out the figures "7,000.00—7,000.00" and insert in lieu thereof the figures "22,500.00—22,500.00."

Sec. 81, line 2, strike out the figures "60,000.00—60,000.00" and insert in lieu thereof the figures "75,000.00—75,000.00."

Sec. 24, line 2—after line 2 insert the following:

Emergency Appropriation.

Sec. 24-b. To meet emergencies that arise during the time that the legislature is not in session\$50,000.00 \$50,000.00

This appropriation is to be disbursed on the order of the Board of Public Works. Before any expenditures are made from this appro-

priation, the same shall be authorized by a recorded vote, showing the unanimous approval of all the members of said board.

It shall be unlawful for any state board, commission, officer, or employee to incur any liability, during the fiscal year ending June 30, 1922, or during any fiscal year thereafter, which cannot be paid out of the then current year appropriation or out of funds received from the emergency appropriation.

It shall be unlawful for any state board, commission, officer or employee to authorize or to pay any account or bill incurred during the fiscal year ending June 30, 1922, or any year thereafter, out of the appropriation for the following year, unless a sufficient amount of the appropriation for the fiscal year, during which the liability was incurred was cancelled by expiration or a sufficient amount of the appropriation remained unexpended at the end of the year.

Any member of a state board or commission or any officer or employee violating the provisions of this section shall be personally liable for any debt unlawfully incurred or for any payment unlawfully made.

Militia.

Sec. 24-c, to carry into effect the provisions of chapter 18, Barnes' code as amended relating to the militia—60,000.00—60,000.00.

State Sinking Fund Commission.

Sec. 24-d, expenses of state sinking fund commission including compensation of assistants, stenographers and all other expenses 8,000.00—8,000.00.

Recodification Commission.

Sec. 24-e, to pay salary of the commission to recodify the general statutes—18,000.00—18,000.00.

Expenses of the recodification commission including compensation of assistants, stenographers and all other expenses—15,000.00—15,000.00.

General School Fund.

Sec. 24-f, to supplement the general school fund for the purpose of paying part of the increase in salaries of teachers and district supervisors provided for in House Bill No. 81 and Senate Bill No. 159, and state aid for standardized schools as provided for in House Bill No. 23—1,100,000.00—1,100,000.00.

World's War—Soldiers, Sailors and Marines.

Sec. 24-g, for the relief of sick and disabled or indigent soldiers, sailors and marines residing in West Virginia, who served in the

World's war, to be expended in the manner provided for by law, 50,000.00—50,000.00.

Child Welfare Commission.

Sec. 24-h, to pay the secretary and necessary expenses incurred by the child welfare commission to carry out the provisions of Senate Bill No. 98, to be paid on the approval of the Governor—4,750.00—4,750.00.

Bureau of Colored Welfare and Statistics.

Sec. 24-i, to pay the salary of the director of bureau—3,600.00—3,600.00.

To pay traveling and all other expenses in accordance with Senate Bill No. 248—2,500.00—2,500.00.

Capitol and Office Buildings.

Sec. 24-j. Building and lands —1,500,000.00—1,500,000.00.

The above to be expended upon the order of the Capitol Building Commission hereby authorized to be appointed by the Governor immediately after the passage of this act.

The said commission shall be composed of seven members of which the Governor himself shall be *ex-officio* chairman.

Said commission is hereby authorized and empowered to enter into contracts for the construction of suitable capitol and office buildings.

Subject to the final approval of the board of public works it is hereby authorized to purchase, acquire, sell and exchange real estate and to co-operate with the city of Charleston on an equitable basis in acquiring sufficient land on which to erect capitol and office buildings.

Said commission is authorized to enter into contracts for the above named purposes for capitol, office buildings and land in a total amount of not to exceed \$6,500,000.00 plus the amount received by the state as insurance for the destruction of the old capitol building, and the amount received from the sale of land.

Sec. 21, line 3, after line 3 insert the following:

Repairs and Improvements	\$16,000.00	\$16,000.00
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Sec. 22, line 2, after line 2 insert the following:

Repairs and Improvements	10,000.00	10,000.00
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To purchase ground for and to construct new

mansion for use of Governor	82,500.00	82,500.00
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(This appropriation to be expended on order of the Board of Public Works.)

Sec. 28, line 2, after line 2 insert the following:

Repairs and Improvements	12,500.00	12,500.00
Buildings and Land (to complete building) ..	20,000.00	20,000.00

Sec. 29, line 2, after line 2 insert the following:

Repairs and Improvements	12,500.00	12,500.00
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For sewerage (to be expended under the supervision of the State Board of Control and contingent upon the City of Spencer raising an equal amount to be used for the same purpose)

25,000.00	25,000.00
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Sec. 30, line 2, after line 2 insert the following:

Repairs and Improvements	25,000.00	25,000.00
Buildings and Land	6,000.00	6,000.00

Sec. 31, line 8, after line 8 insert the following:

Buildings and Land	75,000.00	75,000.00
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Sec. 32, line 2, after line 2 insert the following:

Repairs and Improvements	15,000.00	15,000.00
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Sec. 33, line 2, after line 2 insert the following:

Repairs and Improvements	5,000.00	5,000.00
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Sec. 34, line 2, after line 2 insert the following:

Repairs and Improvements	5,000.00	5,000.00
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Sec. 35, line 2, after line 2 insert the following:

Repairs and Improvements	20,000.00	20,000.00
Buildings and Land	37,500.00	37,500.00

Sec. 36, line 2, after line 2 insert the following:

Repairs and Improvements	5,000.00	5,000.00
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Sec. 37, line 2, after line 2 insert the following:

Repairs and Improvements	15,000.00	15,000.00
Buildings and land—Central school building .	50,000.00	50,000.00
Buildings and land	10,000.00	10,000.00

Sec. 38, line 2, after line 2 insert the following:

Repairs and Improvements	10,000.00	10,000.00
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Sec. 39, line 2, after line 2 insert the following:

Repairs and Improvements	2,500.00	2,500.00
Buildings and land	1,500.00	1,500.00

Sec. 40, line 2, after line 2 insert the following:

Buildings and land (destroyed by fire)	12,500.00	12,500.00
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Sec. 43, line 2, after line 2 insert the following:

Completing retaining wall (river bank)	1,500.00	1,500.00
Repairing monument (damaged by lightning)	3,750.00	

Rumseyan Society.

Sec. 43-a. For maintenance of grounds at Shepherdstown	500.00	500.00
Sec. 49, line 8, after line 8, insert the following:		
Repairs and Improvements	50,000.00	50,000.00
Buildings and land (to complete law building)	50,000.00	50,000.00
Buildings and land (Chemistry Building)	200,000.00	200,000.00
Buildings and Land—Physical Education Building	150,000.00	150,000.00
Sec. 50, line 3, after line 3 insert the following:		
Repairs and Improvements	15,000.00	15,000.00
Buildings and land	30,000.00	30,000.00
Sec. 51, line 2, after 2 insert the following:		
Building and land (to complete plant)	15,000.00	15,000.00
To be expended on the joint approval of State Board of Control and Board of Public Works.		
Sec. 52, line 3, after line 3 insert the following:		
Repairs and improvements	10,000.00	10,000.00
Buildings and land—Dormitory	40,000.00	40,000.00
Farm equipment	2,500.00	2,500.00
Sec. 53, line 4, after line 4 insert the following:		
Repairs and improvements	25,000.00	30,000.00
Buildings and land	75,000.00	75,000.00
Buildings and land (to complete Physical Edu- cation Building)	35,000.00	35,000.00
Sec. 54, line 3, after line 3 insert the following:		
Repairs and Improvements	15,000.00	15,000.00
Buildings and land (to complete Dormitory)	60,000.00	60,000.00
Sec. 55, line 3, after line 3 insert the following:		
Repairs and Improvements	12,500.00	12,500.00
Buildings and land (to complete Dormitory)	45,000.00	45,000.00
Buildings and land	85,000.00	85,000.00
Sec. 56, line 3, after line 3 insert the fol- lowing:		
Repairs and improvements	15,000.00	15,000.00

Buildings and land	15,000.00	15,000.00
Sec. 57, line 3, after line 3 insert the following:		

Repairs and improvements	2,500.00	2,500.00
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12

Buildings and land	12,500.00	12,500.00
Sec. 58, line 3, after line 3 insert the following:		

Buildings and land (Dormitory)	30,000.00	30,000.00
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Farm equipment, machinery and live stock..	1,500.00	1,500.00
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Repairs and improvements	7,500.00	7,500.00
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Physical Education Building and Athletic grounds	7,500.00	7,500.00
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Sec. 59, line 3, after line 3 insert the following:

Repairs and improvements	12,500.00	12,500.00
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Buildings and land	2,000.00	2,000.00
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Sec. 60, line 3, after line 3 insert the following:

Repairs and improvements	15,000.00	15,000.00
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Buildings and land—to complete buildings..	40,000.00	40,000.00
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Sewerage system	5,000.00	5,000.00
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Sec. 61, line 2, after line 2, insert the following:

Buildings and land	10,000.00	10,000.00
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Sec. 62, line 3, after line 3 insert the following:

Repairs and improvements	25,000.00	25,000.00
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Buildings and land (to complete Dawson Hall)	61,282.46	
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Buildings and land	50,000.00	75,000.00
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Sec. 63, line 3, after line 3 insert the following:

Repairs and improvements	6,000.00	6,000.00
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Buildings and land	8,000.00	40,000.00
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Sec. 68, line 9, after line 9 insert the following:

Hospital Service.

Sec. 68-a. For treatment of laborers and

others who may become public charges, said amount to be paid upon approval of the state board of control in the manner hereafter set forth 50,000.00 50,000.00

October 1, 1921, and every three months thereafter any hospital, other than state hos-

13

pitals, within the state and doing charity work, may file with the state board of control itemized bills for all charity cases treated during the preceding three months, said bills to be made out in the form prescribed by and at the rates fixed by said board. Sixty days shall be allowed for filing said bills after which time the board of control shall audit the same and pay all proper claims. If, however, the aggregate of all claims filed exceeds one-fourth of the amount appropriated for the year then said board shall apportion the said one-fourth appropriated so that each claim will receive its pro-rata share. (This appropriation to be expended on order of the state board of control, under rules and regulations prescribed by said board.)

Sec. 68-b. For the care and treatment in state and other hospitals of drug addicts, residents of the state of West Virginia who may become public charges, said care and treatment to be subject to such rules and regulations as may be prescribed by the state board of control 10,000.00 10,000.00

EXTRAORDINARY SESSION, 1920

House Bill No. 9

(House Bill No. 9 - Mr. Parsons)

AN ACT making appropriations of public money to pay the per diem and mileage of members of the legislature for the extraordinary session of one thousand nine hundred and twenty and for salaries of the officers and attaches thereof and miscellaneous expenses in connection therewith.

Be it enacted by the Legislature of West Virginia:

Section 1. That there be and are hereby appropriated out of the public treasury for the payment of the per diem and mileage of members of the legislature for the extraordinary session of one thousand nine hundred and twenty, the salaries of the officers and attaches thereof, and miscellaneous items, the following sums of money:

House of Delegates.

Mileage of the members of the house, three thousand five hundred dollars.

Per Diem of the Speaker and Members.

Speaker of the House for four days at six dollars per day, twenty-four dollars.

Eighty-nine members of the house for four days, at four dollars per day each, fourteen hundred and twenty-four dollars.

Sergeant-at-arms of the house for four days at seven dollars per day, twenty-eight dollars.

Doorkeeper of the house for four days at six dollars per day, twenty-four dollars.

Speaker's Appointees.

Five floor stenographers for four days at six dollars per day each, one hundred and twenty dollars.

One stenographer to speaker of the house for four days at eight dollars per day, thirty-two dollars.

Assistant sergeant-at-arms for four days at seven dollars per day, twenty-eight dollars.

Clerk to sergeant-at-arms for four days at six dollars per day, twenty-four dollars.

9 Five floor pages for four days at three dollars per day each,
10 sixty dollars.

11 One mail and banking page for four days at four dollars per
12 day, sixteen dollars.

13 Four journal pages for four days at four dollars per day
14 each, sixty-four dollars.

15 Two assistant door keepers for four days at five dollars per
16 day, forty dollars.

17 Seven cloak and toilet room keepers for four days, at five
18 dollars per day each, one hundred and forty dollars.

19 One gallery doorkeeper for four days at five dollars per day,
20 twenty dollars.

Clerk of the House of Delegates.

For services preliminary to, during, and to complete the work
2 of the session, including the printing and indexing of the corrected
3 Journal, head noting, indexing, proof reading, and printing and
4 distributing the acts of this extraordinary session, twenty-seven
5 days at fifteen dollars per day, four hundred and five dollars.

6 Two desk clerks for four days, at ten dollars per day each,
7 eighty dollars.

8 One-half of the compensation of the supervisor of printing
9 of the two houses, for services preliminary to, during and to com-
10 plete the work of the session for fifteen days, at six dollars per day,
11 ninety dollars.

12 One reading clerk, four printing clerks, two bill record clerks,
13 one stenographer to chief clerk, three assistant clerks, and one
14 office stenographer for four days at eight dollars per day, three
15 hundred and eighty-four dollars.

16 Page to clerk of house for four days at four dollars per day, six-
17 teen dollars.

18 For necessary help in performing the above mentioned work
19 to be done by the clerk of the house of delegates, including clerks
20 and stenographers, three hundred and sixty dollars.

21 Contingent fund for the house of delegates, two thousand
22 five hundred dollars.

Miscellaneous Items.

Walnut Hill Lithia Water Company, water for house, six
2 dollars.

- 3 Chesapeake and Potomac Telephone Company, telephone ser-
4 vice rendered to office of Speaker and Clerk of House, forty-eight
5 dollars and fifty cents.
- 6 S. Spencer Moore Company, drinking cups and sundries, twen-
7 ty-two dollars and fifty cents.
- 8 J. R. Scott, two rubber stamps for sergeant-at-arms, seventy-
9 five cents.
- 10 Elfrida Moore to rent of typewriter, five dollars.
- 11 Samuel Ragland, house janitor, eleven days at five dollars per
12 day, fifty-five dollars.
- 13 Edwd. Scotts, house janitor, twelve and one-half days at five
14 dollars per day, sixty-two dollars and fifty cents.
- 15 Bert Skyles, house janitor, eleven days at five dollars per
16 day, fifty-five dollars.
- 17 Allen Stokes, house janitor, twelve and one-half days at five
18 dollars per day, sixty-two dollars and fifty cents.
- 19 Abney, Barnes & Co. for roller towels, fourteen dollars and
20 twenty-five cents.
- 21 Armstrong & Whitten, for cleaning windows, eighty dollars.
- 22 Armstrong & Whitten, for painting elevator and shaft, seventy-
23 eight dollars and thirty-five cents.
- 24 Goshorn Hardware Company, for buckets, four dollars.
- 25 Brad Noyes, for pitchers, trays and tumblers, three dollars
26 and ten cents.
- 27 Coyle & Richardson, for adjusting blinds, eight dollars and
28 sixty-five cents.
- 29 J. M. Gates Sons Company, for oil, one dollar and thirty
30 cents.
- 31 J. W. Jenkins, for repairing clocks, three dollars and fifty
32 cents.
- 33 Clara Doust, for making towels, two dollars and fifty cents.
- 34 Underwood Typewriter Co. for rent of typewriters, five
35 dollars.
- 36 Tripure Water Co. for drinking water for Senate, five dollars
37 and eighty-five cents.

SENATE

Mileage of the members of the senate, one thousand one hun-
2 dred and forty-six dollars and forty cents.

3 *To pay the per diem of the President and Members of the*
4 *Senate:*

5 President of the Senate four days at six dollars per day,
6 twenty-four dollars.

7 Twenty-seven members of the senate four days at four dol-
8 lars per day each, four hundred and thirty-two dollars.

Per Diem of Other Elective Officers

 Clerk of the Senate twenty-seven days at fifteen dollars per
2 day, including services preliminary to, during and after the ses-
3 sion in indexing and publishing the corrected Journal and acts,
4 co-operating with the Clerk of the House in the publication of ten
5 thousand copies of House Bill No. 5, of this extraordinary session,
6 four hundred and five dollars.

7 Sergeant-at-Arms of the Senate four days at seven dollars
8 per day, twenty-eight dollars.

9 Doorkeeper of the senate four days at six dollars per day,
10 twenty-four dollars.

Presidential Appointees.

 Stenographer to the president, five days at eight dollars per
2 day, forty dollars.

3 Clerk to committee on finance, five days at eight dollars per
4 day, forty dollars.

5 Clerk to committee on enrolled bills, four days at eight dol-
6 lars per day, thirty-two dollars.

7 Assistant doorkeeper, four days at five dollars per day, twen-
8 ty dollars.

9 Gallery doorkeeper, four days at five dollars per day, twenty
10 dollars.

11 Mailing and Banking page, seven days at four dollars per day
12 including services after the session, in forwarding mail to senators
13 and attaches, twenty-eight dollars.

14 One Journal page four days at four dollars per day, sixteen
15 dollars.

16 One floor stenographer four days at eight dollars per day,
17 thirty-two dollars.

18 One floor page four days at four dollars per day, sixteen
19 dollars.

- 20 One day watchman four days at five dollars per day, twenty
21 dollars.
- 22 One night watchman four days at five dollars per day, twenty
23 dollars.
- 24 One cloak-room attendant four days at five dollars per day,
25 twenty dollars.
- 26 One toilet room attendant four days at five dollars per day,
27 twenty dollars.

Clerk's Appointees.

- Chief assistant clerk for services preliminary to, during and
2 in completing the work of the session, fifteen days at ten dollars
3 per day, one hundred and fifty dollars.
- 4 Official stenographer of the senate for services during and
5 after the close of the session, fifteen days at ten dollars per day
6 one hundred and fifty dollars.
- 7 One half the compensation of the supervisor of printing for
8 the two houses, for services preliminary to, during and in complet-
9 ing the work of the session, fifteen days at six dollars per day,
10 ninety dollars.
- 11 Assistant supervisor, in charge of senate journals and bills
12 and one general assistant, for services during and in completing
13 the work of the session, fifteen days at eight dollars per day each,
14 two hundred and forty dollars.
- 15 Two printing clerks and three copyholders four days at eight
16 dollars per day each, one hundred and sixty dollars.
- 17 One messenger to clerk six days at four dollars per day,
18 twenty-four dollars.
- 19 Contingent fund of the senate, one thousand dollars.

EXTRAORDINARY SESSION, 1920

House Bill No. 5

(House Bill No. 5 - Mr. Cuppett)

AN ACT to define and fix the qualification of female voters; to provide for the registration of female voters for the general election held in November, one thousand nine hundred and twenty; to provide for registration of male and female voters in new elec-

tion precincts created since the primary election on May twenty-fifth, one thousand nine hundred and twenty, for said general election; and to provide additional election facilities for holding said election, and compensation of election officers.

Be it enacted by the Legislature of West Virginia:

Section 1. Female citizens of the state shall be entitled to
2 vote at all elections held within the precincts of the counties in
3 which they respectively reside; but no person who is a minor, or
4 of unsound mind or a pauper, or who is under conviction of
5 treason, felony or bribery in an election, or who has not been a
6 resident of the state for one year, and of the county in which
7 she offers to vote for sixty days next preceding such election,
8 and who is not at the time of the election, an actual and bona
9 fide resident of the election precinct in which she offers to vote,
10 shall be permitted to vote at such election, while such disability con-
11 tinues; and no person in the military, marine or naval service of
12 the United States shall be deemed a resident of the State, by reason
13 of being stationed therein; nor shall any person in the em-
14 ployment of any incorporated company, or of this state, be deemed
15 a resident of any county, or of any election precinct therein by rea-
15a son of being employed in said county or election precinct. But no
16 female shall be allowed to vote at the general election held on the
17 Tuesday next after the first Monday in November, one thousand
18 nine hundred and twenty, unless she shall have been registered as
19 herein provided, and the commissioners of said election shall al-
20 low only those to vote whose names appear upon the registra-
21 tion books furnished to them by the clerk of the county court, or
22 who present a proper certificate of transfer as now provided by
23 law. And at all elections held after said general election in
24 November, one thousand nine hundred and twenty, no female
25 shall be permitted to vote unless she shall have been registered in
26 the same manner required by law for the registration of male
27 voters.

Sec. 2. The county court of every county shall immediately
2 after this act goes into effect, furnish to the registrars in each
3 voting precinct in the county, sufficient registration books and
4 blanks for the registration of the female voters therein, which
5 books shall be so arranged as to admit of the alphabetical classi-
6 fication of the names of the voters and ruled in parallel columns,

7 on which the registrar shall enter, first, the number; second, the
8 names of the persons registered; third, color; fourth, age; fifth,
9 place of birth; sixth, time of residence in precinct, county and
10 state; seventh, if naturalized, the date of the papers and the
11 court by which issued; eighth, date of registration; ninth, place
12 of residence. Said registration books and blanks shall be delivered
13 to said registrars by the county clerk in person, or to the resi-
14 dence or usual place of abode of said registrars; and not later
15 than the first day of October, one thousand nine hundred and
16 twenty. Said registrars shall meet together and proceed to regis-
17 ter the names of all qualified female voters in their respective
18 precincts, and shall endeavor to ascertain and register each and
19 every quaiified female voter entitled to vote within the precinct,
20 and for this purpose shall visit the usual place of abode of each
21 and every female voter; if either one of the registrars refuse
22 or fail to register the voters of his precinct, as herein required,
23 then the other registrar may, in the absence of such registrar
24 so refusing or failing, proceed to make or complete such registra-
25 tion; and it shall be the duty of such registrar, so refusing or
26 failing so to do, to copy the names of the persons so registered
27 by the other registrar, in his registration book, and if he fails
28 to do so, then it shall be the duty of the county court to have
29 the same done at its sittings, for the purpose of completing and
30 revising said registration list. From the action of the county
31 court an appeal may be taken to the circuit court, or
31a from the circuit court to the supreme court of appeals
32 of this state. And in registering each voter, said reg-
33 istrar shall give the christian name, and her surname,
34 and shall designate the place of her residence, her age and color,
35 and whether she is a native or foreign born, and such information
36 as is provided for in this section, which information shall be
37 given in the proper column provided in the books furnished by
38 the clerk of the county court, as hereinbefore provided. Any regis-
39 trar violating any of the provisions of this section shall be fined
40 not less than fifty dollars and confined in jail not less than thirty
41 days.

42 If said registrars after examining any voter, are not satisfied as
43 to her right to be registered, then said registrars shall require said
44 voter to make an affidavit in writing, on a blank to be furnished
45 which affidavit shall be duly subscribed and sworn to by said voter

46 before either of said registrars, and in which affidavit said voter
47 shall answer fully the questions giving information as required
48 under section ninety-eight-a (4) of chapter six, acts extra-
49 ordinary session, one thousand nine hundred and sixteen, and if
50 said affidavit shows that she is a voter in said precinct, she shall
51 then be registered by said registrars. Said registrars having regis-
52 tered such voter upon her affidavit, may mark said affidavit "chal-
53 lenged," and return the same with their list of registration, to the
54 clerk of the county court, and said clerk shall preserve said affi-
55 davit in his office, and either registrar or any citizen or any voter
56 of the county may appear before the county court and have
57 the right of said voter's registration determined by said county
58 court. And any person who shall wilfully make any such affidavit
59 falsely shall be guilty of felony, and upon conviction thereof, shall
60 be confined in the penitentiary not less than one nor more than
61 three years; or, in the discretion of the court, may be confined in
62 the county jail not less than one nor more than six months.

63 Every female shall be registered who will be entitled to vote
64 at said general election in November, one thousand nine hundred
65 and twenty, by reason of her arriving at twenty-one years of age
66 before that election, and by reason of her having resided for a
67 sufficient length of time in the state and county, *provided* she is
68 otherwise qualified.

Sec. 3. Said registrars after completing the registration of
2 female voters as far as in their power, shall, when they sit to-
3 gether as provided by law on the third Monday next prior to said
4 general election, have said registration books then and there open
5 for public inspection, and shall register in said books all qualified
6 female voters who have not theretofore been registered by them,
7 and complete and finish the registration of the female voters in
8 their said precincts, and make out and sign two alphabetical
9 lists of female voters so registered by them in said books, and
10 return the same to the clerk of the county court within three
11 days from the time of said sitting. And for their services in
12 making said registration the registrars shall receive the same com-
13 pensation now allowed for registering the male voters. The coun-
14 ty court at its session held on the Tuesday next preceding said
15 general election shall add to said list the names of all female
16 voters who shall then appear in person and make application for
17 registration, for the the same reasons and in the same manner
18 as now provided for male voters.

Sec. 4. In any county where new election precincts have been established in the manner prescribed by law, since the twenty-fifth day of May, one thousand nine hundred and twenty, and prior to the passage of this act, the county court shall, within ten days after this act goes into effect, appoint two registrars in the same manner and upon the same request or recommendation prescribed by law for each of said newly created precincts, and said registrars shall immediately proceed to register the male and female voters in said precincts in the manner now prescribed by law, and for their services such registrars shall be allowed the same compensation now provided for such service, to be audited and paid by the county court out of the county treasury.

Sec. 5. For the purposes of holding a general election to be held on the Tuesday after the first Monday in November, in the year one thousand nine hundred and twenty, the commissioners of election at every precinct where the registration of voters for that precinct (as shown by the registration books then received by them from the county clerk) shows two hundred voters or more, shall appoint two additional poll clerks, qualified voters in said precinct, either one or both of whom may be female voters of the precinct, one from each of the political parties which cast the largest number of votes at the last preceding general election in the state, and who shall be selected by the commissioner or commissioners representing the political party from which said clerks are respectively appointed, who shall take the same oath, perform the same duties, and receive the same compensation as clerks of the receiving board, except it shall not be necessary for more than two of the clerks, who are of opposite politics, to sign their names on the ballots which are cast by the voters. And at said general election in November one thousand nine hundred and twenty, the number of booths or compartments at each voting place where the registration of voters therefor shows two hundred voters or more, shall not be less than five nor more than ten, and not more than one voter for each booth or compartment shall be allowed in the election room at the same time. All poll books and registration books shall be made in ink.

Sec. 6. Every commissioner of election, poll clerk, challenger and ballot commissioner shall be allowed five dollars each day he shall serve as such, including the time necessary to receive and deliver the ballots, ballot boxes, poll books and tally sheets.

5 *Provided* the ballot commissioners shall not receive an allowance
6 for more than two days.

Sec. 7. All provisions of the registration laws of this state
2 now in force which are not inconsistent with the provisions of
3 this act, shall apply to the registration of the voters herein re-
4 quired to be registered.

EXTRAORDINARY SESSION, 1920

House Bill No. 1

(House Bill No. 1 - Mr. Thomas)

AN ACT to amend and re-enact section twenty and section twenty-
one of chapter thirty-three of acts of the legislature of one thous-
and nine hundred and five, establishing the Independent School
District of Williamson, in the county of Mingo, in the state of
West Virginia.

Be it enacted by the Legislature of West Virginia:

That section twenty and section twenty-one of chapter thirty-
three of acts of the legislature of nineteen hundred and five, estab-
lishing the Independent School District of Williamson, in the county
of Mingo, in the State of West Virginia, be, and they are hereby,
amended and re-enacted so as to read as follows:

Section 20. The board of education is hereby authorized to pro-
vide, by purchase, condemnation, leasing, building, or other-
wise, school houses and grounds, including a Teachers' Home or
Dormitory for teachers, and furniture, fixtures and appendages:
it shall keep the same in good order and repair, and shall supply
the said school houses, and Teachers' Home, or Dormitory for
teachers, with fuel and other things necessary and convenient;
and the said board of education shall keep the schools of said
district in operation not less than nine months in the year, and
may keep open and in operation the said Teachers' Home, or
Dormitory for teachers, which shall be used as and for a home for
the teachers, or such of them as the board may admit thereto, em-
ployed in said schools. The said board shall have the right to
employ a matron, janitor and such additional help as may be nec-

15 essary for said Teachers' Home, or Dormitory for teachers, whose
16 salaries or wages shall be paid out of the funds of the district,
17 and may collect from all persons who shall room and board in
18 said Teachers' Home, or Dormitory for teachers, compensation
19 for such room and board, as the said board of education may pre-
20 scribe; and all moneys received by the board on account thereof
21 shall be and become a part of the funds belonging to said district.

22 It shall be the duty of the said board of education, at its
23 annual meeting which shall be held at the time required by the
24 general school law, to ascertain as near as may be the amount of
25 money necessary, in addition to other funds properly belonging
26 to said district available for that year, to keep the schools of said
27 district in operation for not less than nine months, and to pro-
28 vide the funds which may be required, for said year, for any other
29 purpose authorized by this section; and for the amount so neces-
30 sary, the said board shall levy a tax upon the taxable property in
31 said district, which tax shall be collected in the same manner as
32 other school taxes are collected under the provisions of the gen-
33 eral school law of this state. The proceeds of the taxes so levied
34 and collected shall constitute such funds as the board shall
35 designate or, in the absence of such designation by the board, as
36 provided by general law.

Sec. 21. That, in addition to the authority conferred upon
2 said board of education, by the next preceding section, in the matter
3 of providing grounds and school houses, Teachers' Home, or
4 Dormitory for teachers, and furniture and fixtures, as therein
5 provided, the said board of education is hereby authorized and
6 empowered to issue bonds of said school district to an amount
7 sufficient for the purpose of providing suitable lands, and of erect-
8 ing thereon and furnishing and equipping suitable buildings, to
9 be used for school purposes, and a suitable building to be used
9-a for a Teachers' Home or Dormitory for teachers, within
10 said school district, as well as for the purpose of reconstructing,
11 remodeling, and making additions to the present buildings, and
12 refurnishing and re-equipping the same; which said bonds shall
13 be of such denominations as the said board by order shall prescribe
14 and shall be payable in not less than five years, nor more than
15 thirty-four years, at the option of the said board, and which shall
16 bear interest at the rate of not to exceed six per centum per annum,
17 payable annually; *provided*, that the aggregate of said bonds for
18 said purposes, including existing indebtedness of said district.

19 shall not exceed five per centum of the value of all the taxable
20 property in said district, the same to be ascertained by the last
21 assessment for state and county purposes next before the incurring
22 of such indebtedness; and said board of education shall provide by
23 levy a direct annual tax sufficient to pay annually the interest on
24 such indebtedness, and the principal when due, as well as to pay
25 annually the interest on the existing indebtedness of said district
26 and the principal when due.

27 But no such bonds shall be issued hereunder unless the ques-
28 tion of issuing the same shall have been first submitted to the
29 voters of the said school district at an election to be held for that
30 purpose, and shall have received three-fifths of all of the votes
31 cast for and against the same. Such bond election shall be held
32 and conducted under the supervision of the said board of educa-
33 tion, and the result thereof shall be ascertained and certified by
34 the said board, which shall appoint at least three qualified voters
35 to hold said election at each of the several voting precincts, as
36 established by the city of Williamson, the corporate limits whereof
37 being the same as the exterior boundaries of said district. One of
38 the persons so appointed at each precinct shall act as clerk, and
39 the other two shall act as commissioners of the election. A notice
40 of said election, duly published in two newspapers of general cir-
41 culation in said district once each week for two successive weeks
42 prior to said election shall be sufficient notice, and publication of
43 notice of said election.

44 All acts and parts of acts inconsistent herewith are hereby
45 repealed.

EXTRAORDINARY SESSION, 1921

House Bill No. 5

(Senate Substitute for House Bill No. 1)

(Committee on Taxation and Finance.)

AN ACT making appropriations of public moneys out of treasury,
in accordance with the provisions of the constitution of the state
of West Virginia.

Be it enacted by the Legislature of West Virginia:

Section 1. That there be and are hereby appropriated out of

2 the treasury for the fiscal year ending June thirty, one thousand
 3 nine hundred and twenty-two, and for the fiscal year ending June
 4 thirty, one thousand nine hundred and twenty-three, and for the
 5 remainder of the fiscal year ending June thirty, one thousand nine
 6 hundred and twenty-one, the following sums of money for the fol-
 7 lowing-named purposes:

Sec. 2. The amounts appearing in the column headed "1922"
 2 are for the fiscal year ending June thirty, one thousand nine hun-
 3 dred and twenty-two and the amounts appearing in the column
 4 headed "1923" are for the fiscal year ending June thirty, one
 5 thousand nine hundred and twenty-three.

Sec. 3. All appropriations appearing under sub-sections
 2 "A" and "B" are payable out of the general revenue of the state
 3 unless otherwise provided herein.

SUB-SECTION "A"

Salaries.

	1922	1923
Sec. 4. Salary of the governor	\$10,000.00	10,000.00
2 Salary of the auditor	5,000.00	5,000.00
3 Salary of the treasurer	5,000.00	5,000.00
4 Salary of the attorney general..	5,000.00	5,000.00
5 Salary of the commissioner of		
6 agriculture	5,000.00	5,000.00
7 Salary of the secretary of state..	5,000.00	5,000.00
8 Salary of the state librarian	3,000.00	3,000.00
9 Salary of adjutant general.....	3,600.00	3,600.00
10 Salary of the state tax commis-		
11 sioner	6,000.00	6,000.00
12 Salary of the forest, game and		
13 fish warden	150.00	
14 Salaries of the members of the		
15 public service commission....	18,000.00	18,000.00
16 Salary of the state compensation		
17 commissioner	6,000.00	6,000.00
18 Salary of the chief of the de-		
19 partment of mines	5,000.00	5,000.00
20 Salary of the commissioner of		
21 banking	5,000.00	5,000.00
22 Salary of the commissioner of labor	3,600.00	3,600.00

23	Salary of the state historian and		
24	archivist	2,700.00	2,700.00
25	Salary of the state commissioner		
26	of health	4,800.00	4,800.00
27	Salary of the janitor	1,800.00	1,800.00
28	Salary of the keeper of the rolls..	300.00	300.00
29	Salaries of the three members of		
30	the board of control	15,000.00	15,000.00
31	Salary of the state hotel inspec-		
32	tor	1,500.00	1,500.00
33	Salary of the state commissioner		
34	of prohibition	3,750.00	5,000.00

Judiciary.

35	Salaries of the judges of the		
36	supreme courts of appeals....	40,000.00	40,000.00
37	Salaries of the judges of the cir-		
38	cuit courts	125 500.00	125,500.00

EXECUTIVE DEPARTMENT

Auditor's Office.

Sec. 5. Salaries of clerks,			
2	bookkeepers, stenographers and		
3	other assistants	44,400.00	44,400.00
4	Current general expenses.....	4,000.00	4,000.00
5	Expenses of insurance depart-		
6	ment	17,000.00	17,000.00
7	To pay expenses in connection		
8	with the enforcement of the		
9	speculative security act in ac-		
10	cordance with the provisions		
11	of House Bill No. 472.....	5,000.00	5,000.00
12	For refunding moneys erroneous-		
13	ly paid into the treasury such		
14	sums are hereby appropriated		
15	as may be erroneously so paid,		
16	payable out of the same fund		
17	into which paid.		

18 For pay of state agents, such
 19 amounts are hereby appropri-
 20 ated as may be necessary to pay
 21 commissions of state agents,
 22 payable out of the fund col-
 23 lected; *provided*, that in no case
 24 shall the amount so paid exceed
 25 ten per centum of the funds col-
 26 lected and paid into the treas-
 27 ury by any such agents.
 28 For refunding to counties, dis-
 29 tricts and municipal corpora-
 30 tions, county, district and mu-
 31 nicipal taxes paid into the
 32 treasury for the redemption of
 33 lands, such amount is hereby
 34 appropriated as will be neces-
 35 sary to refund to the counties,
 36 districts and municipal cor-
 37 porations entitled thereto the
 38 taxes so paid into the treasury.
 39 For refunding county, district and
 40 municipal taxes paid into the
 41 treasury by railroad and other
 42 companies, such sum is here-
 43 by appropriated as will be nec-
 44 essary to refund to each county,
 45 district and municipal corpora-
 46 tion the amount of such taxes
 47 as may be paid into the treas-
 48 ury to the credit of such county,
 49 district and municipal corpora-
 50 tion.

Attorney General's Office.

2	Sec. 6. Salary of first assist-		
3	ant attorney general	4,500.00	4,500.00
4	Salary of second assistant attor-		
	ney general	4,200.00	4,200.00

5	Salary of third assistant attorney		
6	general	4,000.00	4,000.00
7	Salary of printing clerk	3,000.00	3,000.00
8	Salary of reading clerk	1,800.00	1,800.00
9	Salaries of stenographers and		
10	clerks	6,000.00	6,000.00
11	Current general expenses and		
12	traveling expenses	3,000.00	3,000.00
13	To replace law books destroyed		
14	by fire	4,000.00	

Governor's Office.

Sec. 7. Salary of private sec-			
2	retary to the governor	4,500.00	4,500.00

Pardon Attorney's Office.

Sec. 8. Salary of the pardon			
2	attorney	4,000.00	4,000.00
3	Salary of the stenographer	1,500.00	1,500.00
4	Current general expenses	500.00	500.00

Civil Contingent Fund.

Sec. 9. For civil contin-			
2	gent fund, to be expended upon		
3	the order of the governor, no		
4	part of which, however, is to be		
5	used for clerk hire in any of the		
6	state offices or institutions		
7	other than the governor's office	20,000.00	20,000.00

Treasurer's Office.

Sec. 10. Salaries of clerks,			
2	bookkeepers, stenographers and		
3	other assistants	19,800.00	19,800.00
4	Current general and traveling ex-		
5	penses	4,500.00	4,500.00
6	Filing cases in vault	3,000.00	3,000.00

Secretary of State's Office.

Sec. 11. Expenses of secre-			
2	tary of state's office, including		
3	compensation of clerks, stenog-		

4	raphers and other expenses...	21,000.00	21,000.00
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Department of Agriculture.

Sec. 12. Salaries of clerks			
2	and stenographers	10,000.00	10,000.00
3	Salary of chief of bureau of mar-		
4	kets	2,400.00	2,400.00
5	Traveling expenses of chief of		
6	bureau of markets	1,000.00	1,000.00
7	Traveling expenses of the com-		
8	missioner	1,000.00	1,000.00
9	Current general expenses	5,000.00	5,000.00
10	For carrying out the provisions of		
11	chapter thirteen, acts of the reg-		
12	ular session of the legislature		
13	of one thousand nine hundred		
14	and fifteen, relating to diseased		
15	animals; for enforcement of		
16	sire registration law; for the		
17	promotion of poultry industry		
18	and investigating and develop-		
19	ing live stock industry.....	20,000.00	20,000.00
20	For enforcement of crop pest law		
21	and developing farm, horticul-		
22	tural and trucking industries	20,000.00	20,000.00
23	For other expenses of the depart-		
24	ment of agriculture, including		
25	the enforcement of the pure		
26	seed law and employment of		
27	special agents	15,000.00	15,000.00

State Aid for Agricultural Fairs or Associations.

28	To carry out the provisions of		
29	House Bill No. 160.....	25,000.00	25,000.00

State Law Library.

Sec. 13. Current general ex-			
2	penses and clerk hire.....	2,400.00	2,400.00
3	Purchase and binding books for		

4	law library (Charleston)	2,500.00	2,500.00
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Criminal Charges.

2	Sec. 14. To pay criminal charges, including transporta-		
3	tion of prisoners and extradi-		
4	tion of criminals and fugi-		
5	tives	85,000.00	85,000.00

State Tax Commissioner's Office.

2	Sec. 15. Expenses of the state tax commissioner's of-		
3	fice, taxation, inheritance and		
4	general departments, including		
5	compensation of assistants,		
6	stenographers and other ex-		
7	penses	39,000.00	39,000.00
8	Expenses of office of commis-		
9	sioner of prohibition, including		
10	compensation of deputies, as-		
11	stants, clerks, stenographers		
12	and other expenses	50,000.00	50,000.00
13	Only one-fourth of the appropria-		
14	tion for 1922 shall be expended		
15	prior to October first, 1921.		
16	Salary of chief accountant	6,000.00	6,000.00
17	Expenses of uniform system of		
18	accounting, including compen-		
19	sation of assistants, stenog-		
20	raphers and other expenses	7,500.00	7,500.00
21	Expenses of auditing state de-		
22	partments and compiling finan-		
23	cial reports	11,000.00	11,000.00
24	For the enforcement of Senate		
25	Bill No. 265, including sal-		
26	aries of assistants, clerks, sten-		
27	ographers, field agents, equip-		
28	ment, traveling expenses and		
29	all other expenses connected		
30	therewith, so much as may be		

31	necessary, not to exceed.....	63,000.00	56,000.00
32	To pay all expenses in connec-		
33	tion with carrying out the pro-		
34	visions of Senate Bill No. 225,		
35	relative to securing a proper		
36	assessment of property.....	25,000.00	25,000.00

Department of Mines.

	Sec. 16. Salary of chief clerk	3,000.00	3,000.00
2	Salaries of twenty-two district in-		
3	spectors	66,000.00	66,000.00
4	Salary of statistical clerk.....	1,800.00	1,800.00
5	Salaries of three stenographers..	4,000.00	4,000.00
6	Traveling expenses of chief and		
7	district inspectors	22,000.00	22,000.00
8	Current general expenses	2,400.00	2,400.00
9	Salary of inspector of sand and		
10	limestone mines	2,400.00	2,400.00
11	Traveling expenses of inspector		
12	of sand and limestone mines..	1,200.00	1,200.00
13	Salary of director of rescue work	2,400.00	2,400.00
14	Traveling expenses of director and		
15	expense maintaining rescue		
16	stations	6,000.00	6,000.00

Commissioner of Banking.

	Sec. 17. Salaries of four as-		
2	sistants to commissioner of		
3	banking	14,000.00	14,000.00
4	Salary of chief clerk	2,400.00	2,400.00
5	Salary of stenographer	1,800.00	1,800.00
6	Traveling expenses of commis-		
7	sioner and assistants	7,500.00	7,500.00
8	Current general expenses.....	1,500.00	1,500.00

Bureau of Labor and Department of Weights and Measures.

	Sec. 18. Salaries of four fac-		
2	tory inspectors	7,200.00	7,200.00

HOUSE BILLS

1585

3	Salary of chief clerk	2,400.00	2,400.00
4	Salary of assistant clerk and		
5	stenographer	1,800.00	1,800.00
6	Salary of statistical clerk	1,500.00	1,500.00
7	Current general expenses of		
8	the department of weights		
9	and measures	3,000.00	3,000.00
10	Current general expenses of the		
11	bureau of labor	2,500.00	2,500.00
12	Traveling expenses of the com-		
13	missioner of labor and factory		
14	inspectors	7,500.00	7,500.00
15	Salaries of inspectors of weights		
16	and measures	3,600.00	3,600.00
17	Traveling expenses of inspectors		
18	of weights and measures	3,000.00	3,000.00

Department of Archives and History.

Sec. 19. Salary of the cura-			
2	tor of the museum	2,000.00	2,000.00
3	Salary of the librarian	1,800.00	1,800.00
4	Salary of the stenographer	1,500.00	1,500.00
5	Salary of the cataloguer	1,500.00	1,500.00
6	Salary of the messenger and		
7	janitor	1,200.00	1,200.00
8	Current general expenses	2,000.00	2,000.00
9	Purchase of books, periodicals,		
10	magazines and newspapers..	1,500.00	1,500.00
11	Fireproof safe cabinet	700.00	.....

State Health Department.

Sec. 20. Current general ex-			
2	penses	60,000.00	60,000.00
3	Bureau of venereal diseases	10,000.00	10,000.00

Capitol Building and Grounds.

Sec. 21. For water, light,			
2	heat, current expenses, other		
3	than repairs and improvements	25,000.00	25,000.00
4	Repairs and improvements ...	16,000.00	16,000.00

Governor's Mansion and Grounds.

Sec. 22. Current general ex-			
2	penses	10,000.00	10,000.00
3	Repairs and improvements.....	5,000.00	5,000.00
4	To purchase ground for and to		
5	construct new mansion for use		
6	of governor	82,500.00	82,500.00
7	(This appropriation to be ex-		
8	pended on order of the board		
9	of public works.)		

Labor Fund Capitol Building.

Sec. 23. Salaries of engineers,			
2	watchmen, janitors, char-		
3	women and elevator operators..	27,000.00	27,000.00

Printing, Binding and Stationery.

Sec. 24. For printing, bind-			
2	ing, stationery and storage....	100,000.00	100,000.00

Emergency Appropriation.

Sec. 24-b. To meet emer-			
2	gencies that arise during the		
3	time that the legislature is not		
4	in session	\$50,000.00	\$50,000.00

5 This appropriation is to be disbursed on the order of the
 6 board of public works. Before any expenditures are made from
 7 this appropriation, the same shall be authorized by a recorded
 8 vote, showing the unanimous approval of all of the members of
 9 said board.

10 It shall be unlawful for any state board, commission, officer or
 11 employee to incur any liability, during the fiscal year ending June
 12 thirtieth, one thousand nine hundred and twenty-two, or during
 13 any fiscal year thereafter, which cannot be paid out of the then
 14 current year appropriation or out of funds received from the
 15 emergency appropriation.

16 It shall be unlawful for any state board, commission, officer, or
 17 employee to authorize or to pay any account or bill incurred during

18 the fiscal year ending June thirtieth, one thousand nine hundred
 19 and twenty-two, or any year thereafter, out of the appropriation
 20 for the following year, unless a sufficient amount of the appropria-
 21 tion for the fiscal year, during which the liability was incurred, was
 22 cancelled by expiration or a sufficient amount of the appropriation
 23 remained unexpended at the end of the year. *Provided, however,*
 24 that nothing contained herein shall prohibit the entering into a
 25 contract for buildings and land which exceeds the current year
 26 appropriation, if the aggregate cost does not exceed the amount
 27 then authorized by the legislature, even though the amount is
 28 not available during the then current year. Nothing contained
 29 herein shall repeal the provisions of the general law relating to
 30 the expiration of appropriations for buildings and land.

31 Any member of a state board or commission, or any officer or
 32 employee violating the provisions of this section shall be person-
 33 ally liable for any debt unlawfully incurred or for any payment
 34 unlawfully made.

Militia.

Sec. 24-c. To carry into effect		
2 the provisions of chapter eigh-		
3 teen, Barnes' code as amended		
4 relating to the militia	30,000.00	30,000.00

State Sinking Fund Commission.

Sec. 24-d. Expenses of state		
2 sinking fund commission in-		
3 cluding compensation of assist-		
4 ants, stenographers and all oth-		
5 er expenses	8,000.00	8,000.00

Re-Codification Commission.

Sec. 24-e. To pay salary of the		
2 commission to recodify the gen-		
3 eral statutes	18,000.00	18,000.00
4 Expenses of the recodification		
5 commission including compen-		
6 sation of assistants, stenog-		
7 raphers and all other expenses	15,000.00	15,000.00

General School Fund.

Sec. 24-f. To supplement the		
2	general school fund for the pur-	
3	pose of paying part of the in-	
4	crease in salaries of teachers and	
5	district supervisors provided	
6	for in House Bill No. 81 and	
7	Senate Bill No. 159 and	
8	state aid for standardized	
9	schools as provided for in	
10	House Bill No. 23.....	1,000,000.00 1,000,000.00

World War—Soldiers, Sailors and Marines.

Sec. 24-g. For the relief of		
2	sick and disabled or indigent	
3	soldiers, sailors and marines re-	
4	siding in West Virginia, who	
5	served in the World war, to be	
6	expended under such rules and	
7	regulations as may be pre-	
8	scribed by the board of public	
9	works	50,000.00 50,000.00

Child Welfare Commission.

Sec. 24-h. To pay the secre-		
2	tary and necessary expenses	
3	incurred by the child welfare	
4	commission to carry out the	
5	provisions of Senate Bill No.	
6	98, to be paid on the approv-	
7	al of the governor	4,750.00 4,750.00

Bureau of Colored Welfare and Statistics.

Sec. 24-i To pay the salary of		
2	the director of bureau	3,600.00 3,600.00
3	To pay traveling and all other	
4	expenses in accordance with Sen-	
5	ate Bill No. 248	2,500.00 2,500.00

Capitol and Office Buildings.

Sec. 24-j. Buildings and lands \$750,000.00 1,500,000.00

2 The above to be expended upon the order of the capitol building
3 commission hereby authorized to be appointed by the governor
4 immediately after the passage of this act.

5 The said commission shall be composed of seven members of
6 which the governor himself shall be *ex-officio* chairman.

7 Said commission is hereby authorized and empowered to enter
8 into contracts for the construction of suitable capitol and office
9 buildings.

10 Said commission is hereby authorized to purchase, acquire, sell
11 and exchange real estate and to co-operate with the city of Charles-
12 ton on an equitable basis in acquiring the land on which to erect
13 capitol and office buildings.

14 Said commission is authorized to enter into contracts for the
15 above named purposes for capitol, office buildings and land in a
16 total amount of not to exceed six million, five hundred thousand
17 dollars, plus the amount received by the state as insurance for
18 the destruction of the old capitol building, and the amount from
19 the sale of land.

JUDICIARY DEPARTMENT.

Supreme Court of Appeals.

Sec. 25. Salary of the clerk..	1,500.00	1,500.00
2 Salary of the stenographer.....	1,800.00	1,800.00
3 Salary of the deputy clerk.....	3,000.00	3,000.00
4 Salaries of the law clerks.....	12,000.00	12,000.00
5 Salary of the crier	800.00	800.00
6 Mileage of the supreme court		
7 judges	500.00	500.00
8 Current general expenses of the		
9 supreme court	2,000.00	2,000.00
10 Printing and binding supreme		
11 court reports	12,800.00	6,400.00
12 For expenses of conducting exam-		
13 ination of applicants to prac-		
14 tice law, including traveling ex-		
15 penses and per diem of the		
16 members of the examining		

17	board, to be paid on the order		
18	of the president of the examin-		
19	ing board	1,000.00	1,000.00

Circuit Courts.

Sec. 26. Compensation of			
2	special judges of the circuit		
3	courts	2,000.00	2,000.00
4	Mileage of the judges of the cir-		
5	cuit courts	3,000.00	3,000.00

SUB-SECTION "B".

All appropriations appearing under "Sub-Section 'B'" are
 2 payable only on the requisition and approval of the state board of
 3 control.

EXECUTIVE DEPARTMENT.

State Board of Control.

Sec. 27. Salaries of secretary,			
2	buyer, inspector, superintend-		
3	ent of construction, bookkeepers		
4	and other assistants	25,000.00	25,000.00
5	Salaries of stenographers	13,500.00	13,500.00
6	Traveling expenses	2,500.00	2,500.00
7	Current general expenses	5,000.00	5,000.00

Huntington State Hospital.

Sec. 28. Current general ex-			
2	penses	125,000.00	125,000.00
3	Repairs and improvements	12,500.00	12,500.00
4	Buildings and land (to complete		
5	building)	20,000.00	20,000.00

Spencer State Hospital.

Sec. 29. Current general ex-			
2	penses	125,000.00	125,000.00
3	Repairs and improvements	12,500.00	12,500.00

4	For sewerage, to be expended		
5	under the supervision of the		
6	state board of control.....	25,000.00	25,000.00

Weston State Hospital.

Sec. 30. Current general ex-			
2	penses	210,000.00	210,000.00
3	Repairs and improvements	25,000.00	25,000.00
4	Buildings and land	6,000.00	6,000.00

State Colored Hospital for the Insane.

Sec. 31. *Current general ex-			
2	penses	5,000.00	25,000.00
3	*If the above appropriation for		
4	the year one thousand nine		
5	hundred and twenty-two is not		
6	used on account of failure to		
7	complete hospital in said time		
8	then this appropriation shall		
9	be available for the year one		
10	thousand nine hundred and		
11	twenty-three.		
12	Buildings and land	75,000.00	75,000.00

Welch Hospital No. 1.

Sec. 32. Current general ex-			
2	penses	45,000.00	45,000.00
3	Repairs and improvements	15,000.00	15,000.00

McKendree Hospital No. 2.

Sec. 33. Current general ex-			
2	penses	28,000.00	28,000.00
3	Repairs and improvements	5,000.00	5,000.00

Fairmont Hospital No. 3.

Sec. 34. Current general ex-			
2	penses	28,000.00	28,000.00
3	Repairs and improvements	5,000.00	5,000.00

State Tuberculosis Sanitarium.

Sec. 35. Current general ex-			
2	penses	100,000.00	100,000.00
3	Repairs and improvements	20,000.00	20,000.00
4	Buildings and land	37,500.00	37,500.00

State Colored Tuberculosis Sanitarium.

Sec. 36. Current general ex-			
2	penses	20,000.00	22,500.00
3	Repairs and improvements	5,000.00	5,000.00

West Virginia Industrial School for Boys.

Sec. 37. Current general ex-			
2	penses	92,000.00	92,000.00
3	Repairs and improvements	15,000.00	15,000.00
4	Buildings and land — central		
5	school building	50,000.00	50,000.00
6	Buildings and land	10,000.00	10,000.00

West Virginia Industrial Home for Girls.

Sec. 38. Current general ex-			
2	penses	35,000.00	35,000.00
3	Repairs and improvements	10,000.00	10,000.00

West Virginia Children's Home.

Sec. 39. Current general ex-			
2	penses	12,500.00	12,500.00
3	Repairs and improvements	2,500.00	2,500.00
4	Buildings and land	2,500.00	2,500.00

West Virginia Colored Orphan's Home.

Sec. 40. Current general ex-			
2	penses	5,000.00	12,500.00
3	Buildings and land (destroyed by		
4	fire)	12,500.00	12,500.00
5	The amount to be received		
6	from insurance is hereby ap-		
7	propriated to rebuild the		
8	building destroyed by fire.		

Geological Survey Commission.

Sec. 41. Co-operative topo-

2	graphic mapping	20,000.00	20,000.00
3	Publication of reports and maps..	5,000.00	5,000.00
4	Field and other expenses	2,000.00	2,000.00
5	Soil studies	600.00	600.00
6	Stream gauging	500.00	500.00
7	Salaries	16,400.00	16,400.00

Forestry, Game and Fish

Sec. 42. Salaries of two chief

2	deputies	200.00	.....
3	Current, contingent, mileage and		
4	traveling expenses of deputies	100.00	.....
5	Current, contingent, mileage and		
6	traveling expenses of war-		
7	den	100.00	.....
8	For the protection of forests, and		
9	the protection and propagation		
10	of fish and game, to be expend-		
11	ed by the forest, game and fish		
12	warden with the approval of		
13	the state board of control, in		
14	the manner and for the pur-		
15	poses provided by the acts of		
16	one thousand nine hundred		
17	and nine, as amended, not to		
18	exceed \$2,000.00 for the year		
19	ending June 30, one thousand		
20	nine hundred and twenty-two,		
21	said sum is hereby appropri-		
22	ated out of the forest, game		
23	and fish protective fund.		

State Game Commission

24 The balance remaining in the
 25 "forest, game and fish protec-
 26 tive fund" heretofore created,
 27 and the moneys accruing to

28 said fund together with the
 29 annual receipts of "game and
 30 fish fund" are hereby appro-
 31 priated to be expended in the
 32 manner provided by the acts
 33 of one thousand nine hundred
 34 and twenty-one, creating the
 35 state game commission. This
 36 appropriation shall become ef-
 37 fective at the same time as the
 38 said act of one thousand nine
 39 hundred and twenty-one.

Point Pleasant Battle Monument Commission.

Sec. 43. Maintenance, etc.,			
2	Tu-Endie-Wei park	1,500.00	1,500.00
3	Completing retaining wall (river		
4	bank)	2,500.00	2,500.00
5	Repairing monument (damaged		
6	by lightning.)	2,000.00	.....

Rumseyan Society.

Sec. 43-a. For maintenance			
2	of grounds at Shepherdstown..	500.00	500.00

State Board of Pharmacy.

Sec. 44. Salaries and current			
2	general expenses	3,500.00	3,500.00

Berkeley Springs Board

Sec. 45. Current general and			
2	traveling expenses	\$ 500.00	500.00
3	There is hereby appropriated		
4	not to exceed the sum of ten		
5	thousand dollars, for repairs		
6	and improvements to the		
7	state's property, to be paid out		
8	of moneys that may be re-		

9 ceived account forfeiture of
 10 contract heretofore entered in-
 11 to, said payments to be made
 12 on approval of the board of
 13 public works.

State Hotel Inspector.

Sec. 46. Current general and
 2 traveling expenses 1,500.00 1,500.00

Insurance on Public Buildings.

Sec. 47. To pay for insur-
 2 ance on public buildings..... 50,000.00 50,000.00

West Virginia Penitentiary.

Sec. 48. Emergency current
 2 general expenses 20,000.00 20,000.00

West Virginia University.

Sec. 49. Salaries of officers,
 2 teachers and employees..... 400,000.00 425,000.00
 3 Current general expenses 150,000.00 150,000.00
 4 Agricultural, horticultural and
 5 home economic extension 80,000.00 80,000.00
 6 Athletic expense 10,000.00 10,000.00
 7 Mining and industrial exten-
 8 sion 15,000.00 15,000.00
 9 Repairs and improvements 50,000.00 50,000.00
 10 Buildings and land (to complete
 11 law building) 50,000.00 50,000.00
 12 Buildings and land—(chemistry
 13 building) 200,000.00 200,000.00
 14 Building and land—(physical
 15 education building) 150,000.00 150,000.00

Agricultural Experiment Station

Sec. 50. Salaries of officers,
 2 technical staff and labor..... 50,000.00 50,000.00

3	Current general expenses	25,000.00	25,000.00
4	Repairs and improvements	15,000.00	15,000.00
5	Buildings and land	30,000.00	30,000.00
6	4-H camp for boys and girls club		
7	work	10,000.00	5,000.00

Community Packing House.

Sec. 51. Current general ex-			
2	penses	6,000.00	6,000.00
3	Building and land (to complete		
4	plant)	15,000.00	15,000.00
5	To be expended on the joint ap-		
6	proval of state board of con-		
7	trol and board of public		
8	works.		

The Potomac State School—Keyser

Sec. 52. Salaries of officers,			
2	teachers and employees.....	30,000.00	30,000.00
3	Current general expenses	15,000.00	15,000.00
4	Repairs and improvements	10,000.00	10,000.00
5	Buildings and land—dormitory..	40,000.00	40,000.00
6	Farm equipment	2,500.00	2,500.00

Marshall College.

Sec. 53. Salaries of officers,			
2	teachers and employees.....	125,000.00	135,000.00
3	Current general expenses	25,000.00	25,000.00
4	Library books and equipment...	5,000.00	5,000.00
5	Repairs and improvements	25,000.00	30,000.00
6	Buildings and land	75,000.00	75,000.00
7	Buildings and land (to complete		
8	physical education building)	35,000.00	35,000.00

Fairmont State Normal School.

Sec. 54. Salaries of officers,			
2	teachers and employees	60,000.00	60,000.00
3	Current general expenses	15,000.00	15,000.00
4	Repairs and improvements	15,000.00	15,000.00
5	Buildings and land—(to complete		
6	dormitory)	60,000.00	60,000.00

Concord State Normal School.

Sec. 55. Salaries of officers,			
2	teachers and employees.....	44,000.00	48,000.00
3	Current general expenses	12,500.00	12,500.00
4	Repairs and improvements	12,500.00	12,500.00
5	Buildings and land (to complete		
6	dormitory)	45,000.00	45,000.00
7	Buildings and land	85,000.00	85,000.00

West Liberty State Normal School

Sec. 56. Salaries of officers,			
2	teachers and employees	25,000.00	27,500.00
3	Current general expenses	10,000.00	10,000.00
4	Repairs and improvements.....	15,000.00	15,000.00
5	Buildings and land	15,000.00	15,000.00

Shepherd College State Normal School.

Sec. 57. Salaries of officers,			
2	teachers and employees	34,000.00	38,000.00
3	Current general expenses	8,000.00	8,000.00
4	Repairs and improvements	2,500.00	2,500.00
5	Buildings and land	12,500.00	12,500.00

Glenville State Normal School.

Sec. 58. Salaries of officers,			
2	teachers and employees	40,000.00	40,000.00
3	Current general expenses	10,000.00	10,000.00
4	Buildings and land (dormitory)	30,000.00	30,000.00
5	Farm equipment, machinery and		
6	live stock	1,500.00	1,500.00
7	Repairs and improvements	7,500.00	7,500.00
8	Physical education building and		
9	athletic grounds	7,500.00	7,500.00

The New River State School—Montgomery.

Sec. 59. Salaries of officers,			
2	teachers and employees	25,000.00	25,000.00
3	Current general expenses	5,000.00	5,000.00
4	Repairs and improvements	12,500.00	12,500.00
5	Buildings and land	2,000.00	2,000.00

West Virginia School for the Deaf and Blind.

Sec. 60. Salaries of officers,			
2	teachers and employees.....	55,000.00	60,000.00
3	Current general expenses	60,000.00	60,000.00
4	Repairs and improvements	15,000.00	15,000.00
5	Buildings and land—to complete		
6	building	40,000.00	40,000.00
7	Sewerage system	5,000.00	5,000.00

Colored Deaf and Blind School.

Sec. 61. Current general ex-			
2	penses		10,000.00
3	Buildings and land	10,000.00	10,000.00

West Virginia Collegiate Institute

Sec. 62. Salaries of officers,			
2	teachers and employees	64,000.00	64,000.00
3	Current general expenses	25,000.00	30,000.00
4	Repairs and improvements	25,000.00	25,000.00
5	Buildings and land (to complete		
6	Dawson Hall)	61,282.46	.....
7	Buildings and land	50,000.00	75,000.00

Bluefield Colored Institute.

Sec. 63. Salaries of officers,			
2	teachers and employees	27,750.00	27,750.00
3	Current general expenses	6,000.00	6,000.00
4	Repairs and improvements	6,000.00	6,000.00
5	Buildings and land	8,000.00	40,000.00

Storer College.

Sec. 64. Salaries of officers,			
2	teachers and employees	3,000.00	3,000.00

State Board of Children's Guardians.

Sec. 65. Salaries, traveling			
2	expenses, current general ex-		
3	penses	36,500.00	36,500.00

Florence Crittenden Home (Wheeling).

2	Sec. 66. For the care and		
3	treatment of wayward girls		
4	and their children, residents		
5	of West Virginia, who may		
6	become public charges, admit-		
7	ted under regulations pre-		
8	scribed by the state board of		
	control	3,000.00	3,000.00

Hillcrest Tuberculosis Sanitarium (Charleston).

2	Sec. 67. For the care and		
3	treatment of persons afflicted		
4	with tuberculosis, residents		
5	of West Virginia, who may		
6	become public charges, admit-		
7	ted under regulations pre-		
8	scribed by the state board of		
	control	10,000.00	10,000.00

Department of Public Safety.

2	Sec. 68. To pay the expen-		
3	ses of the department of pub-		
4	lic safety, including the com-		
5	penensation of the officers, em-		
6	ployees and members, and all		
7	other expenses thereof, accord-		
8	ing to the provisions of chap-		
9	ter twelve, acts of the extra		
10	session of the legislature of		
11	one thousand nine hundred		
12	and nineteen, as amended and		
	re-enacted	450,000.00	500,000.00

2	Sec. 68-a. For treatment of		
3	laborers and others who may		
4	become public charges, said		
5	amount to be paid upon ap-		
6	proval of the state board of		
7	control in the manner hereaf-		
	ter set forth	50,000.00	50,000.00

8 October one, one thousand nine
 9 hundred and twenty-one, and
 10 every three months thereafter
 11 any hospital other than state
 12 hospitals, within the state and
 13 doing charity work, may file
 14 with the state board of control
 15 itemized bills for all charity
 16 cases treated during the preced-
 17 ing three months, said bills to
 18 be made out in the form pre-
 19 scribed by and at the rates fixed
 20 by said board. Sixty days shall
 21 be allowed for filing said bills
 22 after which time the board of
 23 control shall audit the same and
 24 pay all proper claims. If, how-
 25 ever, the aggregate of all claims
 26 filed exceeds one-fourth of the
 27 amount appropriated for the
 28 year then said board shall ap-
 29 portion the said one-fourth ap-
 30 propriated so that each claim
 31 will receive its pro-rata share.
 32 (This appropriation to be ex-
 33 pended on order of the state
 34 board of control, under rules
 35 and regulations prescribed by
 36 said board.)

2 treatment in state and other hos-
 3 pitals of drug addicts residents
 4 of the state of West Virginia who
 5 may become public charges, said
 6 care and treatment to be subject
 7 to such rules and regulations as
 Sec. 68-b. For the care and
 8 may be prescribed by the state
 9 board of control

5,000.00

10,000.00

State Industrial School for Colored Boys.

Sec. 68-c. Building and land	75,000.00	75,000.00
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State Industrial Home for Colored Girls.

Sec. 68-c. Buildings and land	75,000.00	75,000.00
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Commission to Supervise the Erection of a Monument and Markers.

Sec. 68-e. To carry out the		
2 provisions of House Bill No.		
3 206, relating to the erection of		
4 a monument and markers to		
5 designate the location occu-		
6 pied by the 4th West Virginia		
7 infantry regiment during the		
8 campaign and siege of Vicks-		
9 burg	7,500.00	.....

SUB-SECTION "C".

Sec. 69. All appropriations appearing under Sub-Section "C"
 2 are payable out of the general revenue of the state fund for
 3 the fiscal year ending June thirty, one thousand nine hundred
 4 and twenty-one. Except appropriations in section seventy-three
 5 which are payable for the years one thousand nine hundred and
 6 twenty-two and one thousand nine hundred and twenty-three.

LEGISLATIVE DEPARTMENT.

*Senate.**Mileage.*

Sec. 70. Mileage of members of the Senate for	
2 the initial and adjourned session of one thousand	
3 nine hundred and twenty-one.....	\$ 2,264.80
4 Salaries of members of the Senate.....	15,000.00
5 President of the Senate, two dollars per day extra	
6 for presiding sixty days.....	120.00
7 <i>Compensation and Per Diem of Other Elective Officers.</i>	
8 Compensation of the Clerk of Senate for services	
9 rendered during the initial and adjourned ses-	

10	sions, and the period between the two sessions,	
11	while superintending the printing of Senate	
12	bills	2,160.00
13	Sergeant-at-arms of the Senate and chief assist-	
14	ant for services rendered during the initial and	
15	adjourned sessions, and during the period between	
16	the two sessions, in making ready the circuit	
17	court room in the Kanawha county court house	
18	for occupancy by the Senate at the adjourned	
19	session, and securing and placing furniture and	
20	other equipment, one hundred and eight days each,	
21	at seven dollars per day	1,512.00
22	Doorkeeper of the Senate, sixty days, at eight dol-	
23	lars per day	480.00
24	<i>Presidential Appointees.</i>	
25	Secretary to the President, sixty days at twelve dol-	
26	lars per day,	720.00
27	Stenographer to the President, sixty days, at twelve	
28	dollars per days,	720.00
29	Clerk to Committee on Finance, twelve dollars;	
30	stenographer to Committee on Finance, clerk to	
31	Committee on the Judiciary and stenographer	
32	to the Committee on the Judiciary, clerk to the	
33	Committee on Roads and Navigation and the	
34	stenographer to the Committee on Roads and	
35	Navigation, and the head floor stenographer,	
36	sixty days, at ten dollars per day each, includ-	
37	ing per diem of secretary to the President,	
38	clerk to Committee on Finance and stenog-	
39	rapher to committee on judiciary during the	
40	interim	5,130.00
41	Five other committee stenographers, sixty days, at	
42	eight dollars per day each	2,400.00
43	Eight floor stenographers, sixty days at eight dol-	
44	lars per day each	3,840.00
45	Twenty-six additional committee clerks, sixty days	
46	at eight dollars per day each,	12,480.00
47	One assistant sergeant-at-arms, fifteen days, and	
48	three assistant sergeants-at-arms, forty-five days	
49	at seven dollars per day each,	1,050.00

HOUSE BILLS

1603

50	Four assistant doorkeepers, sixty days, at seven dol-	
51	lars per day each	1,680.00
52	Librarian of the Senate, sixty days, at six dollars	
53	per day,	360.00
54	One messenger to the Senate, fifteen days, and five	
55	messengers, forty-five days at six dollars per day	
56	each,	1,440.00
57	Page to the president, mailing and banking page,	
58	and three journal pages, sixty days, at six dollars	
59	per day each	1,800.00
60	Eleven floor pages, sixty days at five dollars per day	
61	each	3,300.00
62	Day and night watchmen, four cloak room attendants	
63	and two toilet room attendants, fifteen days, and	
64	three watchmen, four cloak room attendants and	
65	five toilet room attendants, forty-five days, at six	
66	dollars per day each	3,960.00

67 *Clerk's Appointees.*

68	Compensation of the chief assistant clerk for ser-	
69	vices rendered during the initial and adjourned	
70	sessions, and the period between the two sessions..	1,620.00
71	Compensation of the supervisor and assistant super-	
72	visor of printing, official stenographer, reading	
73	clerk, abstract clerk, bill editor, office stenographer	
74	and one general assistant, for services at the initial	
75	and adjourned sessions, and during the period be-	
76	tween sessions, while printing senate bills, one	
77	hundred and eight days, at twelve dollars per day	10,368.00
78	Compensation of the warrant clerk, roll clerk, book-	
79	keeper, assistant bill editor, assistant abstract clerk,	
80	three printing clerks and three assistants and four	
81	copy holders, for services at the initial and ad-	
82	juorned sessions, and during the period between	
83	sessions, one hundred and eight days, at ten dollars	
84	per day each	16,200.00
85	Compensation of the senate and house bill record	
86	clerks, clerks to the committee on engrossed and	
87	enrolled bills, four copy holders, two general sten-	
88	ographers, and five assistants for general assign-	

89	ment, for services during the initial and adjourned	
90	sessions, sixty days, at ten dollars per day each...	9,000.00
91	Compensation of the page to the clerk and messen-	
92	ger to the clerk, during the initial and adjourned	
93	sessions, sixty days, at six dollars per day each	720.00
94	Senate contingent fund	20,000.00

To Pay the Following Named Persons and Firms for Supplies Furnished and Services Rendered 1921 Session Senate.

Sec. 70-a.	Abney-Barnes Co., towels and crash	\$ 27.25
2	Armstrong and Whitten, labor and material.....	137.84
3	A. L. Bates, typewriter rental.....	25.00
4	Baldwin Supply Co., hack saw.....	1.75
5	Burlew Hardware Co., two trolley ladders.....	95.80
6	L. V. Butler, pitcher, tumbler and tray.....	7.00
7	Chesapeake & Potomac Tel. Co., services and tolls.	149.27
8	Commercial Law Co., 130 copies of code.....	2,730.00
9	C. I. Coffey Book Store, office supplies.....	36.93
10	Charleston Store Equip. Co., desks and chairs....	165.00
11	Charleston Hardware Co., buckets.....	7.50
12	T. C. Carney, shock absorbers for typewriters.....	8.00
13	Fisher Wagon Works, brackets for railing.....	3.60
14	J. M. Gates' Sons Co., paint, oil and varnish.....	44.42
15	Goshorn Hardware Co., extension ladder and hard-	
16	ware	24.66
17	P. W. Hughes, lettering and signs	53.20
18	J. H. Hudson, locks and keys.....	11.45
19	Indian Refining Co., parafine oil.....	7.45
20	Jeffers and Richardson, labor and material.....	1,621.58
21	Kanawha Novelty Works, locks and keys	20.85
22	Kanawha Seed Co., spray.....	.50
23	Jno. Lee Shoe Co., shoe laces.....	7.80
24	Loewenstein and Sons, cuspidors and buckets.....	9.60
25	Mead Equipment Co., desks, tables and chairs....	1,814.79
26	Metal Office Furniture Co., desks and file cases....	935.40
27	The Sikes Co., typewriter desks.....	216.00
28	The S. Spencer Moore Co., desks, table and office	
29	supplies	555.73
30	McClure Bros., rubber stamps.....	6.65
31	Murphy Electric Shop, electric globes.....	27.65

HOUSE BILLS

1605

32 J. O. Hara, drinking water for senate offices.....	17.50
33 Pugh Furniture Co., chairs.....	32.00
34 Royal Typewriter Co., typewriter rental	14.50
35 Remington Typewriter Co., typewriter rental.....	60.00
36 J. R. Scott, rubber stamps	8.95
37 Jno. W. Sparks Co., water cooler and hardware....	34.50
38 Tripure Water Co., drinking water and coolers....	130.15
39 Thomas Bros., shoe laces	3.60
40 Underwood Typewriter Co., typewriters and rental	484.50
41 Woodrum Home Outfitting Co., rugs, chairs, stand	429.65
42 Whitmore Electric Co., electrical supplies.....	64.55
43 Cal. F. Young, steel cupboard	116.00
44 Y. M. C. A., Electricity, electrical fixtures and re-	
45 pairs	246.06
46 Robert Thornton, brush and broom	1.15
47 Jno. T. Harris, money advanced for janitor and	
48 postage	85.54
49 Clara Darst, making towels	2.50
50 Wm. Dickerson, hauling trash	9.50
51 The American Multigraph Sales Co.....	37.00
52 Mrs. Wm. Brown, washing towels	20.00
53 J. K. Gies, janitor service 61 days at \$2.50 per day..	52.50
54 J. M. Lynn, janitor service 29 days at \$2.50 per day	72.50
55 G. A. Saunders, janitor service 22 days	47.00
56 F. T. Whiting, janitor service 22 days	47.00
57 W. C. Sission, janitor service 22 days	47.00
58 Kenneth West, janitor service 22 days	47.00
59	
Total.....	10,926.32

House of Delegates.

Sec. 71. Mileage of members of the House of	
2 Delegates	7,000.00
3 Per diem of the Speaker of the House at \$2 per day	120.00
4 Salaries of the Speaker and members of the House	47,000.00

Clerk's Appointees.

Sec. 71-a.	Chief assistant clerk, supervisor of	
2	printing, one minute clerk, stenographer to clerk	
3	and reading clerk at \$12 per day	\$3,600.00
4	One minute clerk, 15 days at \$12 per day.....	180.00
5	Sixteen assistant clerks at \$10 per day.....	9,600.00
6	Two assistant clerks, 45 days at \$10 per day.....	900.00
7	One bill editor, 15 days at \$10 per day.....	150.00
8	One page to clerk at \$5 per day.....	300.00

For Services During the Period Between the Sessions.

Sec. 71-b.	Compensation for the Speaker, purchasing furniture and supplies, and supervising	
2	preparation of intermediate court room for occupancy by the House of Delegates	\$500.00
5	Per diem of stenographers to the Speaker, 48 days	
6	at \$12	576.00
7	Per diem of sergeant-at-arms, clerk and stenographer to sergeant-at-arms, assistant clerks, proof	
8	readers, copy holders, stenographers, clerks, janitors, page, mailing and banking page, and journal	
9	pages, for services in connection with editing, proof reading, printing and assistance in mailing	
10	all public and joint resolutions and for making ready the intermediate court room in the Kanawha	
11	county court house for occupancy by the House of Delegates during the adjourned session and for	
12	securing and placing all necessary furniture, supplies, etc., for the use of the House.....	\$8,500.00

Compensation of Other Elective Officers.

Sec. 71-c.	Compensation of the Clerk of the	
2	House for the initial and adjourned sessions and	
3	the period between the sessions	\$2,160.00
4	Compensation of the sergeant-at-arms of the	
5	House for the initial and adjourned sessions and	
6	the period between the sessions	1,296.00
7	Compensation of the doorkeeper of the House for	
8	the initial and adjourned sessions	480.00

9

Speaker's Appointees.

10 Eleven floor stenographers at \$8.00 per day	5,280.00
11 Two chief stenographers at \$10.00 per day	1,200.00
12 Clerk to the Committee on Taxation and Finance	
13 at \$10.00 per day	600.00
14 Stenographer to the Committee on Taxation and	
15 Finance at \$8.00 per day	480.00
16 Secretary and stenographer to the Speaker, 15	
17 days at \$12.00 per day	180.00
18 Secretary and stenographer to the Speaker 45 days	
19 at \$12.00 per day	540.00
20 Clerk to the Committee on the Judiciary at \$10.00	
21 per day	600.00
22 Stenographer to the Committee on the Judiciary	
23 \$8.00 per day	480.00
24 Twenty-nine other clerks at \$8.00 per day	13,920.00
25 One assistant sergeant-at-arms at \$7.00 per day...	420.00
26 T. A. Dixon, assistant sergeant-at-arms at \$9.00	
27 per day	540.00
28 Clerk to sergeant-at-arms at \$8.00 per day.....	480.00
29 Fourteen floor pages at \$5.00 per day	4,200.00
30 One mail and banking page at \$6.00 per day.....	360.00
31 Five Journal pages at \$6.00 per day	1,800.00
32 Donald White, floor page, 45 days at \$5.00 per day	225.00
33 Two night watchmen at \$6.00 per day	720.00
34 Two day watchmen at \$6.00 per day	720.00
35 Four assistant doorkeepers at \$7.00 per day	1,680.00
36 Twelve toilet and cloakroom keepers at \$7.00 per day	8,040.00
37 One Librarian at \$5.00 per day	300.00
38 One messenger to sergeant-at-arms at \$5.00 per day	300.00
39 To pay the following named persons and firms for	
40 supplies furnished and services rendered 1921	
41 session House of Delegates.	
42 Abney Barnes and Co. (Linoleum)	89.78
43 Armstrong & Whitten, (Labor, paint and supplies)	417.44
44 Laura Bostic, (Rent for typewriter)	10.00
45 Coyle & Richardson, (Cheese cloth) .....	.90
46 C. I. Coffey, (Supplies)	27.18
47 F. H. Cavender, (Hauling)	1.00
48 James A. Campbell, (Labor)	24.00

49 G. W. Muse, (Labor)	90.00
50 J. W. P. Knight (Labor and material)	29.13
51 Charleston Cut Flower Co., (Three wreaths and ex.)	45.75
52 Charleston Elec. Sup. Co., (Supplies)	22.34
53 P. A. Donovan, (Supplies for church)	4.00
54 Eskew, Smith & Cannon, (Supplies)	25.33
55 J. M. Gates Sons Co., (Supplies and paint)	33.65
56 J. K. Gies, (Janitor service)	152.50
57 Goshorn Hdwe. Co., (Supplies)	5.45
58 A. E. Harmon, (Lettering)	12.25
59 Huntington Iron Works, (Window guards)	52.50
60 Indian Refg. Co., (Parafine oil)	2.85
61 Jeffers & Richardson, (Material and labor)	367.66
62 Kanawha Novelty Wks., (Locks and keys)	26.75
63 C. C. Douthitt, trustee, assignee, Meade Equipment	
64 Co., (Desks, chairs, etc.)	6,796.74
65 Metal Office Furn. Co., (Desks and file cases)....	426.00
66 Winnie Miller, (Towels and soap)	2.73
67 H. H. Noel, (Coat hooks) .....	.60
68 Roy Pleasant, (Hauling)	4.00
69 The Skies Co., (Office chairs)	375.00
70 Frank P. Swann Co., (Typewriter desks and chairs)	378.60
71 John W. Sparks Co., (Supplies) .....	.60
72 Southern Advertising Co., (Painting cards)	13.20
73 C. L. Topping, (Preliminary work organizing	
74 House)	150.00
75 Underwood Typewriter Co., (To purchase 3 ma-	
76 chines, Nos. 337072, 337082, 337087 and rent)	350.25
77 Western Union Tel. Co., (Electric clock)	23.00
78 Woodrum Home Outfitting Co. (Supplies)	294.35
79 Whitmore Electric Co. (Fans and supplies)	172.15
80 Cal F. Young, (Steel desk and supplies)	540.73
81 H. C. Zogg, (Administering oath to members	
82 House)	47.00
83 Myers Brothers, (Supplies)	12.50
84 J. M. Lynn (29 days at \$2.50—Janitor)	72.50
85 S. Spencer Moore & Co., (Supplies).....	506.60
86 F. W. Hughes, (Painting and lettering)	63.70
87 McKeller Elec. Co. (re-wiring and material)	579.13
88 H.. Rus Warne, (correcting accoustic properties)	50.00

89 Clarence Peters, (Rent of typewriter)	10.00
90 Brawley Brothers, (Cuspidors and pitchers)	74.72
91 Tripure Water Co., (Drinking water)	217.70
92 Wm. Dickinson, (Hauling trash)	6.00
93 W. H. Curtis, (Keys, oils and brushes, express) ..	6.90
94 F. P. Aleshire, (Flowers and railroad fare to	
95 Logan)	18.96
96 F. O. Sanders, (Railroad fare to Logan)	3.96
97 J. S. Zimmerman, (Railroad fare to Logan)	3.96
98 H. O. Dunfee, (Railroad fare to Logan)	3.96
99 O. W. Fitch, (Railroad fare to Logan)	3.96
100 F. C. Baker, (Railroad fare to Logan)	3.96
101 James Flynn & Sons, (Steel desk, table, 4 chairs)	250.00
102 Morgan Lumber Co., (One table)	25.00
103 Safe Cabinet Co., (Safe for clerk's office to be paid	
104 for by the Auditor upon certification of same by	
104-a. the Clerk of the House)	454.28
105 American Express Co., (Express)	16.50
106 Alexander Elec. Co., (repairing lights)	2.05
107 Chas. Hdwe. Co., (1-2 doz. galv. buckets)	7.60
108 F. C. Ritter, (Speaker's chair)	8.75
109 R. L. Thomas, (Hauling)	2.00
110 Clara Darst, (Making roller towels)	2.50
111 H. R. Judy, (Making keys)	2.25
112 Chesapeake & Potomac Tel. Co., (Service and esti-	
113 mated tolls, Speaker, Clerk, sergeant-at-arms	
114 and balance due from 1920)	140.96
115 Leroy Clemens, (Joint supervisor in enrolling on	
116 part of the House).....	240.00
117 Homer Jarrett, (Ten days work at \$10.00 per day)	100.00
118 Orpha Edgell, (15 days initial session at \$8.00 per	
119 day)	120.00
120 Julia Graham Barclay (15 days initial session at	
121 \$8.00 per day)	120.00
122 J. T. Pauley, (Clk. Joint Committee on Roads, 45	
123 days at \$8.00 per day)	270.00
124 W. D. Gosney, (Janitor force additional compensa-	
125 tion, House of Delegates)	90.00
126 Arthur Ragland, Do	90.00
127 James Bass, Do	90.00

128	S. S. Ragland, Do	90.00
129	Lacy Holmes, Do.	90.00
130	Ed. Scott, Do.	90.00
131	C. E. Saulsbury, (Floor page 8 days \$5.00 day) ..	40.00
132	Ulrich Warner, (Court House janitor)	90.00
133	Herman Sisson, Do	90.00
134	William Burdette, Do	90.00
135	Silas Harden, Sr., Do	50.00
136	A. A. Meadows, Do	50.00
137	Lacy Holmes, (Service)	7.00
138	Marie Floyd Ford, (Rent of typewriter 6 mo.,	
139	\$5.00 per mo.)	30.00
140	A. L. Bates, (Rent typewriter)	5.00
141	Dr. E. Leroy Dakin, (Chaplain to House)	125.00
142	A. K. Slaughter, (Bal. Supervisor Printing Ses-	
143	sion, 1919)	300.00
144	Abney Barnes & Co., for linoleum	246.00
145	To pay the increased per diem of the mailing clerks	
146	for the initial and adjourned sessions and the	
147	period between sessions, to be paid by the auditor	
148	upon certification by the secretary of state of	
149	names and number of days employed, at \$2.00	
150	per day	2,490.00
151	Contingent fund of the House of Delegates.....	20,000.00

Legislative Printing and Stationery.

Sec. 72.	To pay the cost of legislative printing	
2	and stationery, the appropriation to be available	
3	for the year ending June thirty, one thousand	
4	nine hundred and twenty-one. If the work is	
5	not completed prior to June thirty, one thousand	
6	nine hundred and twenty-one, then the appropri-	
7	ation shall continue in effect until completed....	125,000.00

Salaries of Members of the Legislature.

	1922	1923
Sec. 73. Salaries of members		
2 of the Senate	\$15,000.00	\$15,000.00
3 Salaries of members of the		
4 House of Delegates	47,000.00	47,000.00

5 The salaries of J. P. Kizer and Charles Avis for
 6 their respective terms shall be paid to their re-
 7 spective widows.

Legislative Hand Book and Manual and Official Register.

Sec 73-a. To pay John T.	
2 Harris for editing, compiling	
3 and publishing the "West Vir-	
4 ginia Legislative Hand Book	
5 and Manual and Official Reg-	
6 ister" under the provisions of	
7 Senate Concurrent Resolution	
8 No. 7, adopted at the adjourned	
9 session of one thousand nine	
10 hundred and twenty-one, in-	
11 cluding expenses incurred for	
12 legal services in having digests	
13 made of important general	
14 laws, and for clerk hire, sten-	
15 ographers and proof readers,	
16 and for shipping charges in	
17 connection with the distribu-	
18 tion of the book to members of	
19 the present and next succeeding	
20 legislature, and as otherwise	
21 provided for in the resolution:	
22 For the year ending June	
23 thirty, one thousand nine hun-	
24 dred and twenty-two.....	\$,000.00
25 For the year ending June	
26 thirty, one thousand nine hun-	
27 dred and twenty-three.....	12,000.00
28 One-half of the above amounts	
29 to be paid by the auditor to	
30 the editor and compiler upon a	
31 certificate from the superin-	
32 tendent of public printing that	
33 the "copy" for the handbook	
34 has been turned over to the pub-	

35 lic printer, and the other half
 36 upon a similar certificate that
 37 the completed editions have
 38 been delivered.

SUB-SECTION "D".

Sec. 74. All appropriations appearing under Sub-Section
 2 "D" are payable out of the general revenue of the state fund for
 3 the fiscal year ending June thirty, one thousand nine hundred
 4 and twenty-one.

Miscellaneous Appropriations.

2	Sec. 75. Deficiency appropriation, current	
3	general expenses, auditor's office for remainder of	
4	year ending June thirty, one thousand nine hun-	
5	dred and twenty-one	\$ 2,000.00
6	To pay for filing cases, furniture and other office	
7	equipment in the auditor's office	19,000.00
8	Deficiency appropriation for clerks and stenogra-	
9	phers, auditor's office, for remainder of year end-	
10	ing June thirty, one thousand nine hundred and	
11	twenty-one	2,800.00
12	Deficiency appropriation to pay expenses of secre-	
13	tary of state's office for remainder of year ending	
14	June thirty, one thousand nine hundred and	
15	twenty-one	6,200.00
16	To pay the cost of distribution of bills and jour-	
17	nals to be disbursed on requisition of secretary	
18	of state	19,000.00
19	Deficiency appropriation to pay expenses of state	
20	tax commissioner's office for remainder of year	
21	ending June thirty, one thousand nine hundred	
22	and twenty-one	5,000.00
23	Deficiency appropriation to pay expenses of office of	
24	commissioner of prohibition for remainder of	
25	year ending June thirty, one thousand nine hun-	
26	dred and twenty-one	40,000.00
27	To pay salary of clerk in office of commissioner of	
28	banking for remainder of year ending June	
	thirty, one thousand nine hundred and twenty-one	1,800.00

29	Deficiency appropriation to pay current general ex-	
30	penses in office of commissioner of banking for	
31	remainder of the year ending June thirty, one	
32	thousand nine hundred and twenty-one	600.00
33	Traveling expenses, commissioner of banking and	
34	assistants for remainder of year ending June	
35	thirty, one thousand nine hundred and twenty-one	1,800.00
36	Deficiency appropriation to pay current general ex-	
37	penses, state department of health, for re-	
38	mainder of year ending June thirty, one thousand	
39	nine hundred and twenty-one	5,000.00
40	Deficiency appropriation to pay for water, light,	
41	heat, and current expenses, repairs and improve-	
42	ments capitol building and grounds, for re-	
43	mainder of year ending June thirty, one thousand	
44	nine hundred and twenty-one	25,000.00
45	Supplemental appropriation for printing and bind-	
46	ing supreme court reports for remainder of year	
47	ending June thirty, one thousand nine hundred	
48	and twenty-one	5,000.00
49	To pay cost of re-printing and binding nine volumes	
50	supreme court reports, destroyed in state house	
51	fire, including cost of proof reading	30,000.00
52	This appropriation to be disbursed on the	
53	requisition of the attorney general. If the	
54	work of re-printing and binding is not completed	
55	before June thirty, one thousand nine hundred	
56	and twenty-one, then this appropriation shall con-	
57	tinue in effect until the work is completed.	
58	Deficiency appropriation to pay current general ex-	
59	penses, Weston state hospital, for remainder of	
60	year ending June thirty, one thousand nine hun-	
61	dred and twenty-one	25,000.00
62	Deficiency appropriation for current general ex-	
63	penses, Fairmont hospital number three for re-	
64	mainder of year ending June thirty, one thousand	
65	nine hundred and twenty-one	10,000.00
66	Deficiency appropriation for current general ex-	
67	penses, West Virginia industrial school for boys,	
68	for remainder of year ending June thirty, one	

69	thousand nine hundred and twenty-one	10,000.00
70	Deficiency appropriation for current general ex-	
71	penses, West Virginia industrial home for girls,	
72	for remainder of year ending June thirty, one	
73	thousand nine hundred and twenty-one	5,000.00
74	Deficiency appropriation for publication of reports	
75	on Nicholas and Tucker counties, geological sur-	
76	vey, for remainder of year ending June thirty,	
77	one thousand nine hundred and twenty-one	2,500.00
78	Deficiency and supplemental appropriation to pay	
79	salaries of officers, teachers and employees, West	
80	Virginia university, for remainder of year ending	
81	June thirty, one thousand nine hundred and	
82	twenty-one (See explanation in budget).....	234,947.36
83	Deficiency and supplemental appropriation to pay	
84	salaries of officers, technical staff and labor, agri-	
85	cultural experiment station, for remainder of	
86	year ending June thirty, one thousand nine hun-	
87	dred and twenty-one	22,500.00
88	Deficiency appropriation to pay current general ex-	
89	penses, agricultural experiment station for re-	
90	mainder of year ending June thirty, one thousand	
91	nine hundred and twenty-one	6,250.00
92	Deficiency and supplemental appropriation to pay	
93	salaries of officers, teachers and employees, pre-	
94	paratory branch of the West Virginia University	
95	at Keyser, for remainder of year ending June	
96	thirty, one thousand nine hundred and twenty-	
97	one	12,500.00
98	Deficiency appropriation to pay current general ex-	
99	penses, preparatory branch of the West Virginia	
100	university at Keyser, for remainder of year end-	
101	ing June thirty, one thousand nine hundred and	
102	twenty-one	7,000.00
103	Deficiency and supplemental appropriation to pay	
104	salaries of officers, teachers and employees, Mar-	
105	shall College, for remainder of year ending	
106	June thirty, one thousand nine hundred and	
107	twenty-one	19,937.50
108	Deficiency appropriation to pay current general	

109	expenses, Marshall college, for remainder of	
110	year ending June thirty, one thousand nine hun-	
111	dred and twenty-one	5,000.00
112	Deficiency appropriation to pay for repairs and	
113	improvements, Marshall college, for remainder	
114	of year ending June thirty, one thousand nine	
115	hundred and twenty-one	2,500.00
116	Deficiency and supplemental appropriation to pay	
117	salaries of officers, teachers and employees,	
118	Fairmont state normal school, for remainder of	
119	year ending June thirty, one thousand nine	
120	hundred and twenty-one	15,000.00
121	Deficiency and supplemental appropriation to pay	
122	salaries of officers, teachers and employees, Con-	
123	cord state normal school, for remainder of year	
124	ending June thirty, one thousand nine hun-	
125	dred and twenty-one	10,775.00
126	Deficiency and supplemental appropriation to pay	
127	salaries of officers, teachers and employees, West	
128	Liberty state normal school, for remainder of	
129	year ending June thirty, one thousand nine hun-	
130	dred and twenty-one	6,500.00
131	Deficiency and supplemental appropriation to pay	
132	salaries of officers, teachers and employees,	
133	Shepherd college state normal school, for re-	
134	mainder of year ending June thirty, one thou-	
135	sand nine hundred and twenty-one	10,000.00
	Sec. 75-a. Deficiency and supplemental ap-	
2	propriation to pay salaries of officers, teachers	
3	and employees, Glenville state normal school,	
4	for remainder of year ending June thirty, one	
5	thousand nine hundred and twenty-one	8,250.00
6	Deficiency and supplemental appropriation to pay	
7	salaries of officers, teachers and employees, West	
8	Virginia schools for the deaf and blind, for re-	
9	mainder of year ending June thirty, one thousand	
10	nine hundred and twenty-one	10,035.00
11	Deficiency and supplemental appropriation to pay	
12	salaries of officers, teachers and employees, West	
13	Virginia collegiate institute, for remainder of	

14	year ending June thirty, one thousand nine hundred and twenty-one	25,990.00
16	Deficiency appropriation to pay current general expenses West Virginia collegiate institute, for remainder of year ending June thirty, one thousand nine hundred and twenty-one	10,000.00
20	Deficiency and supplemental appropriation to pay salaries of officers, teachers and employees, Bluefield colored institute, for remainder of year ending June thirty, one thousand nine hundred and twenty-one	6,144.00
25	To pay additional salary to Freeman Carte, clerk and bookkeeper department of public safety, from July one, one thousand nine hundred and nineteen, to March one, one thousand nine hundred and twenty-one	1,500.00
30	To pay rent of armory, on Capitol street, Charleston, from June thirty, one thousand nine hundred and nineteen, to May one, one thousand nine hundred and twenty-one	4,583.33
34	To pay rent of armory at Huntington, W. Va., from April one, one thousand nine hundred and nineteen, to July one, one thousand nine hundred and twenty-one	6,030.00
38	To pay state's proportion cost of paving Dickinson street, between Lee and Washington, city of Charleston, certificate No. 1680.....	3,085.56
41	To pay state's proportion cost of paving Capitol street, between Lee and Washington, city of Charleston, certificate Nos. 1903 and 1920....	4,392.51
44	To reimburse the state fire marshal fund for money advanced to pay expenses of preparing camp site at Kanawha City for occupancy of U. S. troops.	7,000.00
48	To reimburse state fire marshal fund for money advanced account expenses oil and gas litigation	5,000.00
50	To pay state's special counsel fees, court costs, printing and all other expenses in connection with the defense of and enforcement of chapter five, extraordinary session, one thousand nine	

54	hundred and nineteen, providing for a privilege	
55	tax for the transportation of oil and gas by means	
56	of pipe lines, in the suits of the Eureka Pipe	
57	Line Company and the United Fuel Gas Com-	
58	pany vs. Walter S. Hallanan, state tax commis-	
59	sioner, and E. T. England, attorney general,	
60	recently decided by the supreme court of ap-	
61	peals of West Virginia upon appeal from the cir-	
62	cuit court of Kanawha county, and the several	
63	suits now pending in the circuit court of Kan-	
64	awha county against the state tax commissioner	
65	and the attorney general and for like and similar	
66	expenses in the event of appeal in any of said	
67	cases to the United States supreme court.....	50,000.00
68	This appropriation to be expended on the order	
69	of the board of public works, and to continue in	
70	effect until the litigation is finally determined.	
71	To pay state's special counsel fees, court costs,	
72	including master's allowances, printing, stenog-	
73	raphers for taking depositions, engineers, and all	
74	other expenses in defense of the two suits of the	
75	state of Ohio vs. the state of West Virginia, and	
76	the commonwealth of Pennsylvania vs. the state	
77	of West Virginia, now pending in the United	
78	States supreme court, original jurisdiction,	
79	wherein the state of Ohio and the commonwealth	
80	of Pennsylvania are seeking to enjoin the state of	
81	West Virginia from enforcing chapter seventy-	
82	one, regular session, one thousand nine hundred	
83	and nineteen, relating to persons, firms and cor-	
84	porations engaged in furnishing or required by	
85	law to furnish natural gas for public use within	
86	this state	50,000.00
87	This appropriation to be expended on the order of	
88	board of public works, and to continue in effect	
89	until the litigation is finally determined.	
90	To complete and equip buildings Reymann Mem-	
91	orial farm and station, West Virginia experi-	
92	ment station	10,000.00
93	To construct temporary state capitol building and	

94	equip same, including furniture, rugs, file cases,	
95	typewriters, adding machines and other office	
96	equipment	225,000.00
97	(This appropriation to be expended on order of	
98	the board of public works.)	
99	To partially replace stock of printing, binding,	
100	stationery and blank paper, destroyed by recent	
101	state house fire	75,000.00
102	To pay the expense of wrecking and removing the	
103	ruins of the state house destroyed by fire.	20,000.00
104	This appropriation to be expended on order of the	
105	board of public works.	
106	To pay cost of repairs and improvements to capitol	
107	annex building	4,000.00
108	To pay expenses incidental to the inauguration of	
109	the governor, March fourth, one thousand nine	
110	hundred and twenty-one, to be paid on requisition	
111	of the governor drawn on the auditor.	3,500.00
112	To pay R. A. Windel for cleaning carpets in house	
113	of delegates and senate chamber.	150.00
114	To supplement the appropriation for salaries for	
115	judges of the circuit courts for the remainder of	
116	the year ending June thirtieth, one thousand nine	
117	hundred and twenty-one, so as to pay additional	
118	salary from January first, one thousand nine	
119	hundred and twenty-one account changes caused	
120	by one thousand nine hundred and twenty census	500.00
121	To supplement appropriation for salary of the audi-	
122	tor for remainder of the year ending June thir-	
123	tieth, one thousand nine hundred and twenty-one,	
124	account change in salary March fourth, one thou-	
125	sand nine hundred and twenty-one.	163.80
126	To supplement appropriation for salary of the treas-	
127	urer for remainder of year ending June thirtieth,	
128	one thousand nine hundred and twenty-one, ac-	
129	count change in salary March fourth, one thou-	
130	sand nine hundred and twenty-one.	485.79
131	To supplement appropriation for salary of the at-	
132	torney general for remainder of year ending June	
133	thirtieth, one thousand nine hundred and twenty-	

134	one, account change in salary March fourth, one	
135	thousand nine hundred and twenty-one.....	322.85
136	To supplement appropriation for salary of the sec-	
137	retary of state for remainder of year ending June	
138	thirtieth, one thousand nine hundred and twenty-	
139	one, account change in salary March fourth, one	
140	thousand nine hundred and twenty-one.....	323.85
141	To supplement appropriation for salary of the com-	
142	missioner of agriculture for remainder of year	
143	ending June thirtieth, one thousand nine hundred	
144	and twenty-one, account change in salary March	
145	fourth, one thousand nine hundred and twenty-one	323.85
146	To supplement appropriation for salary of the	
147	state tax commissioner for remainder of year	
148	ending June thirtieth, one thousand nine hun-	
149	dred and twenty-one, account change in salary..	388.88
150	Deficiency appropriation to pay criminal charges	
151	for remainder of year ending June thirtieth, one	
152	thousand nine hundred and twenty-one.....	35,000.00
153	Supplement for appropriation for current gen-	
154	eral expenses of the supreme court of appeals on	
155	account of payments made for state board of law	
156	examiners for remainder of year ending June	
157	thirtieth, one thousand nine hundred and twen-	
158	ty-one	600.00
159	To purchase fire proof file cabinets for card rec-	
160	ords furnished by federal government showing	
161	record of West Virginians who served in the	
162	World War	1,000.00
163	To pay A. A. Lilly for services rendered and	
164	expenses incurred March fifth, sixth and seventh,	
165	one thousand nine hundred and seventeen, in the	
166	supreme court of the United States at Washing-	
167	ton, in filing the return of West Virginia in the	
168	case of Virginia vs. West Virginia in the man-	
169	damus proceedings before said court at Washing-	
170	ton, pursuant to the direction of the governor	
171	and employment in that regard	500.00
172	To pay Edward F. Diehl for expenses incurred	
173	as assistant to commissioner of banking in March,	

174	one thousand nine hundred and nineteen	74.68
175	To pay the widow of Charles Walker, who was killed	
176	January third, one thousand nine hundred and	
177	twenty-one, in the state house fire. This appro-	
178	priation to be paid at the rate of fifty dollars per	
179	month beginning January first, one thousand	
180	nine hundred and twenty-one, on the requisition	
181	of the state auditor	1,500.00
182	To pay Earl R. Buffington account hospital bill and	
183	time lost resulting from injuries received last	
184	Thanksgiving day when bleacher stand collapsed	
185	at foot ball game Marshall college.	80.57
186	To pay Bessie Dey Arnett account hospital and	
187	medical bills resulting from injuries received last	
188	Thanksgiving day when bleacher stand collapsed	
189	at foot ball game Marshall college	125.50
190	To pay Edward R. Evans account medical bills and	
191	time lost resulting from injuries received last	
192	Thanksgiving day when bleacher stand collapsed	
193	at foot ball game, Marshall college.	150.00
194	To cover the cost of preparing an "index to land	
195	grants" in accordance with house bill one hundred	
196	and ninety-four and senate bill two hundred	
197	and seventy-six, this appropriation to be disburs-	
198	ed on requisition of the auditor and to continue	
199	in effect until the work is completed.	3,500.00

SUB-SECTION "E".

Sec. 76. All appropriations appearing under Sub-Section 2 "E" are payable out of the general school fund of the state.

Department of Schools.

	1922	1923
Sec. 77. Salary of the Su-		
2 perintendent of free schools..	\$ 5,000.00	\$ 5,000.00
3 Salary of assistant superintend-		
4 ent	3,300.00	3,300.00
5 Salary of supervisor of colored		
6 schools	2,700.00	2,700.00
7 Stenographers and clerks	18,000.00	18,000.00
8 Inspection and supervision of		

9	high schools	3,000.00	3,000.00
10	Inspection and supervision of ru-		
11	ral schools	6,000.00	6,000.00
12	Expenses for conducting uniform		
13	examinations, including salary		
14	of supervisor of examinations	12,000.00	12,000.00
15	Printing, binding and station-		
16	ery	25,000.00	25,000.00
17	Expenses of state superintend-		
18	ent	500.00	500.00
19	Current general expenses	6,000.00	6,000.00
20	Traveling and other necessary		
21	expenses of inspectors and su-		
22	pervisors of colored schools,		
23	rural schools, high schools,		
24	conferences and general ex-		
25	penses	7,500.00	7,500.00
26	Salaries, traveling expenses and		
27	other necessary expenses con-		
28	nected with sanitary inspec-		
29	tion; the institution and carry-		
30	ing out of system of physical		
31	education; the preparation, in-		
32	spection and approval of plans		
33	for school buildings and for the		
34	teaching of thrift and Ameri-		
35	canization	10,000.00	10,000.00

State Board of Education.

36	Salaries of six members of state		
37	board of education	6,000.00	6,000.00
38	Salaries of two advisory mem-		
39	bers	2,000.00	2,000.00
40	Expenses of members of state		
41	board of education	3,500.00	3,500.00
42	Expenses of advisory members..	600.00	600.00
43	Salary and expenses of secretary		
44	and director	5,000.00	5,000.00
45	Salaries of clerks and stenogra-		
46	phers	1,800.00	1,800.00

General Expenses.

47 State aid for classified high		
48 schools in accordance with the		
49 provisions of general law....	176,000.00	182,000.00
50 <i>Provided, however, if the aggre-</i>		
51 <i>gate amount in the general</i>		
52 <i>school fund is not sufficient to</i>		
53 <i>supplement in full all elemen-</i>		
54 <i>tary schools, together with aid</i>		
55 <i>to high schools, then after sup-</i>		
56 <i>plementing all elementary</i>		
57 <i>schools the balance shall be ap-</i>		
58 <i>portioned to the high schools.</i>		
59 Salaries of county superintend-		
60 ents	92,000.00	92,000.00
61 Compensation and expenses of		
62 institute instructors	15,000.00	15,000.00
63 To assist in rehabilitation work		
64 for which the Federal govern-		
65 ment provides dollar for dollar		
66 —payable on order of the state		
67 board of education	15,000.00	15,000.00
68 <i>Provided, That out of this fund</i>		
69 <i>aid shall be given blind stu-</i>		
70 <i>dents doing work of college</i>		
71 <i>rank in any of the colleges of</i>		
72 <i>the state, on approval of the</i>		
73 <i>state board of education.</i>		
74 Vocational education, payable on		
75 order of the state board of edu-		
76 cation and state board of con-		
77 trol	25,000.00	25,000.00
78 The auditor shall credit all de-		
79 linquent taxes due the state to		
80 the fund to which they belong,		
81 and the cost of certification of		
82 sale shall be paid out of the		

83 fund to which they are credit-
 84 ed, and there is hereby appro-
 85 priated so much as may be
 86 necessary for the payment of
 87 the same not to exceed..... 10,000.00 10,000.00
 88 And for the publication there is
 89 hereby appropriated so much as
 90 may be necessary, the cost of
 91 publication of each tract not to
 92 exceed the sum of seventy-five
 93 cents, payable on requisition of
 94 of the state auditor.
 95 In addition to the foregoing ap-
 96 propriations the balance of the
 97 receipts for each year of said
 98 fund is hereby appropriated for
 99 supplemental aid to schools in
 100 accordance with the provision
 101 of general law.

Department of Schools.

Sec. 77-a. Deficiency appropriations to pay ex-
 2 penses of department of schools for remainder of
 3 year ending June thirtieth, one thousand nine
 4 hundred and twenty-one, as follows:

Emergency.

Sec. 77-b Salary of superintendent of free-
 2 schools \$ 323.85
 3 Stenographers and clerks 1,800.00
 4 Expenses of conducting uniform examinations..... 1,500.00
 5 Printing, binding and stationery 3,000.00
 6 Traveling and other necessary expenses of inspect-
 7 ors and supervisors of colored schools, rural
 8 schools, high schools, conferences and general ex-
 9 penses 500.00
 10 Current general expenses..... 1,600.00

State Board of Education.

11	Expenses	500.00	
12	Salary and expenses of secretary and field director	500.00	
13	To assist in rehabilitation of those injured and in-		
14	capacitated in industrial pursuits for which the		
15	Federal government provides dollar for dollar		
16	under the Smith-Hughes act.....	4,000.00	

General Purposes.

17	Salaries of county superintendents as fixed by gen-		
18	eral law	15,072.43	

Delinquent Lands.

19	Deficiency appropriation to pay cost of certifica-		
20	tion of delinquent taxes for remainder of year		
21	ending June thirtieth, one thousand nine hundred		
22	and twenty-one	2,700.00	
23	(This appropriation is payable on requisition of		
24	state auditor.)		

SUB-SECTION "F".

Sec. 78. All appropriations appearing under Sub-Section "F"
2 are payable out of the state road fund of the state.

STATE ROAD COMMISSION.

Automobile Bureau.

Sec. 79. For purchase of li-

2	cense tags, storage, postage,		
3	freight, express and cartage		
4	on same	41,000.00	55,000.00
5	Salaries of clerks, stenographers		
6	and field agent, including ex-		
7	penses of field agent	31,500.00	36,500.00
8	Current general expenses	19,500.00	21,500.00

9 *Administration Expenses.*

10	Salaries of commissioners	22,500.00	22,500.00
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11 Salaries of engineers, clerks,		
12 stenographers, property, ac-		
13 counting, recording and all		
14 other assistants	152,800.00	152,800.00
15 Bridge designs, plans and records		
16 and testing material	64,000.00	64,000.00
17 Traveling expenses	20,000.00	20,000.00
18 Inspection and supervision of		
19 war material	5,000.00	5,000.00
20 Office rent	15,000.00	15,500.00
21 Furniture and equipment	50,000.00	15,000.00
22 Current general expenses	14,500.00	15,000.00
23 To carry out the provisions of		
24 chapter 39, acts one thousand		
25 nine hundred and nineteen, re-		
26 lating to 3 per cent engineer-		
27 ing expense required by the		
28 Federal government so as to se-		
29 cure federal aid	21,700.00	21,700.00
30 (This appropriation to con-		
31 tinue in effect until the work		
32 has been completed in accord-		
33 ance with federal require-		
34 ments.)		
35 For complying with and carry-		
36 ing out the provisions of sec-		
37 tion 83, good roads acts, one		
38 thousand nine hundred and		
39 twenty-one, relating to refunds		
40 and refunding moneys erro-		
41 neously paid through the com-		
42 mission into the treasury such		
43 sums are hereby appropriated		
44 as may be erroneously paid.		
45 In addition to the foregoing ap-		
46 propriations the balance or		
47 residue of the annual receipts		
48 of the state road fund are		
49 hereby appropriated for the		
50 construction, re-construction		

51 and maintenance of state
 52 roads, and for the payment of
 53 interest on and principal of
 54 outstanding road bonds in ac-
 55 cordance with the provisions
 56 of the good roads act of one
 57 thousand nine hundred and
 58 twenty-one, legislature, sections
 59 15, 23 and 72.

State Road Commission.

60	Deficiency appropriations to pay expenses of state	
61	road commission for remainder of year ending	
62	June thirty, one thousand nine hundred and twen-	
63	ty-one, as follows:	
64	Salaries of engineers	\$19,000.00
65	Collecting and printing statistics	4,000.00
66	For testing materials	1,300.00
67	Salaries of clerks in automobile bureau	6,500.00
68	Auto tags and distribution	8,500.00
69	Office rent	2,000.00
70	Office supplies and contingent expenses	4,000.00
71	Traveling expenses	1,000.00
72	To refund amount drawn under three per cent. pro-	
73	vision of house bill number forty-six (Ch. thirty-	
74	nine) acts of the legislature of one thousand nine	
75	hundred and nineteen	6,700.49
76	To supplmenent the appropriation for salary of the	
77	state road commission for June, one thousand	
78	nine hundred and twenty-one, account the change	
79	in law	1,392.17
80	Current general expenses account reorganization of	
81	state road commission	5,500.00

SUB-SECTION "G".

Sec. 80. All appropriations appearing under Sub-Section "G"
 2 are payable out of the special license fees authorized by section
 3 fifteen, chapter eight, acts of one thousand nine hundred an.
 4 fifteen (regular session) and amendments thereto.

Public Service Commission.

Sec. 81. Current general ex-
 2 penses 80,000.00 30,000.00

SUB-SECTION "H".

Sec. 82. All appropriations appearing under Sub-Section "H"
 2 are payable out of the fund created by chapter nine, acts of one
 3 thousand nine hundred and fifteen (extraordinary session) and
 4 amendments thereto.

Workmen's Compensation.

Sec. 83. Current general ex-
 2 penses \$140,000.00 \$140,000.00
 3 To pay the expense of an audit of
 4 the workmen's compensation
 5 department, so much as may be
 6 necessary, not to exceed 5,000.00 5,000.00
 7 Audit to be made in accordance
 8 with the provisions of chapter
 9 thirty-three, acts one thousand
 10 nine hundred and eight, and the
 11 appropriations to be disbursed
 12 on the requisition of the chief
 13 inspector of public offices.
 14 To replace furniture, equipment,
 15 records, etc., destroyed by
 16 recent state house fire..... 40,000.00 40,000.00

SUB-SECTION "I".

Sec. 84. All appropriations made by general law payable out
 2 of "special revenue" are hereby authorized payable out of the
 3 special revenue collected for the specific purposes.

SUB-SECTION "J".

Sec. 85. For refunding over-payments made into the treasury
 2 on account of taxes, licenses, fines and commissions, to be paid out
 3 of the fund into which they were paid, such an amount as may be
 4 necessary for such purpose is hereby appropriated.

Sec. 86. The appropriations herein made to or for any state board of institution shall be drawn from the treasury upon the requisition of the proper officers thereof made upon the auditor at such times and in such amounts as may be necessary for the purposes for which such appropriations are made; and the auditor shall pay the amount named in any such requisition at such time and in such installments as shall be necessary for the purposes for which any such appropriation is made. But all requisitions for appropriations for new buildings and substantial betterments, except such as are under control of the board of control, shall be accompanied by the architect's estimate that the amount named in such requisition is needed for immediate use. The auditor shall not issue his warrants to pay any money out of the state treasury unless the same is needed for present use.

The members of all state boards or commissions, unless a different rate of compensation is provided by law, shall be allowed four dollars per day for each day necessarily employed as such (including the time spent in going to and returning from the place of meeting) and the actual and necessary expenses incurred by them in the discharge of their duties, and no mileage shall be paid. But before payment of any such member of any such compensation or expenses, he shall make up in duplicate and certify to its correctness an itemized statement of the number of days spent (giving dates) and of the expenses, which statement shall be filed with the secretary or clerk of the institution, the original whereof the secretary or clerk shall file or preserve in his office, and the duplicate he shall at once forward to the auditor. If any such member shall willfully make a greater charge for such services or expenses than truth justifies, he shall be guilty of embezzlement and punished accordingly.

Sec. 87. All printing, binding, printing paper and stationery for the state superintendent of free schools shall be paid for out of the general school fund. No printing, binding or printing paper or stationery for the following named boards, officers or institutions shall be paid for out of the appropriation for public printing, public binding, or for supplying paper or stationery, but shall be paid for out of the appropriations therefor herein made, or out of the expense fund or current general expense fund thereof, namely:

The public service commission, the state road commission, the workmen's compensation department, the forest, game and

12 fish warden, the board of dental examiners, state vaccine agents,
13 commissioners of pharmacy, state board of examiners, state board
14 of embalmers, Welch hospital No. 1, McKendree hospital No. 2,
15 Fairmont hospital No. 3, West Virginia Humane Society, nor-
16 mal schools, schools for the deaf and blind, the university and
17 all its branches, including the experiment station, Huntington,
18 Weston and Spencer state hospitals, industrial school for boys,
19 the West Virginia collegiate institute and the industrial home for
20 girls.

21 Such boards, officers and institutions, except the state super-
22 intendent of free schools, that are herein required to pay for their
23 own printing, stationery and printing paper and binding, have
24 authority to procure the same, or have the same done on requis-
25 tion of the superintendent of public printing, or may buy such
26 printing and stationery, or have such printing and binding done
27 on competitive bids, under such rules as may be made by the
28 commissioners of public printing.

29 When stationery or printing is procured from the super-
30 intendent of public printing, or printing and binding are done on
31 requisition of his office, by any such board, officers or institu-
32 tions, the superintendent of public printing as to such printing,
33 binding, stationery and printing paper, shall certify the cost there-
34 of to the auditor, stating to what officer, board or institution the
35 same was furnished, and the auditor shall charge against the proper
36 fund or appropriation of such officers, institution or board the
37 amount thereof, and credit such amount to the proper appropria-
38 tions made by this act for public printing, binding, stationery
39 and printing paper. *Provided*, that the annual or biennial reports
40 required by law to be made to the governor by such boards, officers
41 and institutions shall be printed and paid for out of the appro-
42 priation for public printing, public binding and for supplying
43 printing paper and stationery, but all such reports shall be type-
44 written, or prepared in such a manner that the same shall be
45 legible and suitable for printers' copy, and only so much of any
46 such reports shall be printed as may be ordered by the governor;
47 and no such reports shall be printed by the public printer except
48 on requisition therefor, signed by the governor, which requisition
49 shall state the number to be printed and how the same are to be
50 bound. Such officers, boards and institutions as are required by
51 law to make a report to the governor, shall place the same in his

52 hands as soon as the same are completed, and within ninety days
53 after the close of the period which they are to cover.

Sec. 88. No sum of money shall be paid out of the treasury
2 for the years ending June thirtieth, one thousand nine hundred
3 and twenty-two, and one thousand nine hundred and twenty-three,
4 beyond the amounts hereby appropriated, unless the same be pro-
5 vided for by constitution or some general law, and no money shall
6 be hereafter drawn from the treasury to pay the salary of any
7 officers or employees before their services have been rendered.

Sec. 89. Upon the adjournment of this session of the legisla-
2 ture, the Clerk of the House and the Clerk of the Senate, shall
3 jointly make up and furnish the auditor and treasurer, without
4 delay, a certified copy of this and all other acts carrying appropri-
5 ations.

EXTRAORDINARY SESSION, 1921

House Bill No. 2

(House Bill No. 2—Committee on Finance.)

AN ACT making appropriations of public money to pay the officers,
attaches, and miscellaneous expenses in connection with the
extraordinary session of the legislature of one thousand nine hun-
dred and twenty-one.

Be it enacted by the Legislature of West Virginia:

Section 1. That there be and are hereby appropriated out of
2 the public treasury, for the payment of the officers, attaches and
3 miscellaneous expenses in connection with the extraordinary ses-
4 sion one thousand nine hundred and twenty-one, the following
5 sums of money:

6 *House of Delegates.*

7 Per diem of the Speaker at \$2.00 per day	\$ 8.00
8 Compensation of the clerk	80.00
9 Sergeant-at-arms	48.00
10 One mailing and banking page	24.00
11 Five floor pages	100.00
12 Private secretary to the Speaker	48.00

13	Two chief stenographers	80.00
14	Five floor stenographers	160.00
15	Two journal pages	48.00
16	One assistant sergeant-at-arms	36.00
17	Clerk to the sergeant-at-arms	32.00
18	One assistant doorkeeper	28.00
19	One gallery doorkeeper	28.00
20	Clerk to the committee on the judiciary	40.00
21	Assistant clerk to the committee on the judiciary ...	32.00
22	Clerk to the committee on taxation and finance	40.00
23	Stenographer to the committee on taxation and finance	32.00
24	One maid for ladies' rest room	20.00
25	Two night watchmen	48.00
26	Four cloak room keepers	96.00
27	J. M. Lynn, chief janitor	10.00
28	Two desk or minute clerks	96.00
29	One supervisor of printing	48.00
30	One bill editor	40.00
31	One journal editor	40.00
32	Two printing clerks	80.00
33	Two copy holders	80.00
34	Two bill record clerks	80.00
35	One reading clerk	48.00
36	One stenographer for clerk	48.00
36	One clerk to committee on enrolled bills	40.00
38	One page to clerk	20.00
39	LeRoy Clemens (joint supervisor enrolling on part of	
40	House)	16.00
41	Tripure Water Co.	6.00
42	Six extra janitors	120.00
43	Contingent fund of house of delegates	1000.00
44	Chaplain of House	10.00

Senate.

Sec. 2. Compensation of the president of the Senate

2	as presiding officer	\$ 8.00
3	Private secretary to the president	48.00
4	Stenographer to the president	48.00
5	Page to the president, mailing and banking page and	
6	three journal pages	120.00

7 Clerk to the committee on finance	48.00
8 Stenographer to the committee on finance	40.00
9 Clerk to the committee on the judiciary	40.00
10 Stenographer to the committee on the judiciary	40.00
11 Clerk to the committee on enrolled bills	40.00
12 Head floor stenographer	40.00
13 Five committee stenographers and four floor stenog-	
14 raphers	288.00
15 Sergeant-at-arms of the senate and two assistant ser-	
16 geant-at-arms	84.00
17 Doorkeeper of the senate and one assistant doorkeeper	60.00
18 Two cloak room attendants, two toilet room attendants	
19 and day and night watchman	144.00
20 Five floor pages	100.00
21 Four extra janitors	80.00
22 Compensation of the clerk	80.00
23 Chief assistant clerk	60.00
24 Supervisor of printing, reading clerk, official stenog-	
25 rapher, office stenographer and abstract clerk	240.00
26 Ten additional assistants	400.00
27 Page and messenger to the clerk	48.00
28 Chaplain of the senate	10.00
29 Contingent fund of the senate	\$1,000.00

EXTRAORDINARY SESSION, 1921

House Bill No. 3

(House Bill No. 3—Mr. Stathers.)

AN ACT to amend and re-enact sections one, two, two-a, two-b, six, nine and sixteen of chapter thirty-three of Barnes' code of West Virginia of one thousand nine hundred and eighteen, relating to taxes on inheritances, devises, distributive shares and legacies, and to provide for the appraisement of estates subject to such taxes.

Be it enacted by the Legislature of West Virginia:

That sections one, two, two-a, two-b, six, nine and sixteen of chapter thirty-three of the code of West Virginia of one thousand

nine hundred and eighteen, relating to taxes on inheritances, devises, distributive shares and legacies, and to the appraisement of estates subject to a transfer tax, be amended and re-enacted so as to read as follows:

Section 1. A tax payable into the treasury of the state, shall be imposed upon the transfer, in trust, or otherwise, of any property or interest therein, real, personal, or mixed, of five hundred dollars or more if such transfer be

(a) By will or by laws of this state regulating descents and distributions from any person who is a resident of the state at the time of his death and who shall die seized or possessed of property;

(b) By will or by laws regulating descents and distributions, or property within the state, or within its jurisdiction, and the decedent was a non-resident of the state at the time of his death;

(c) By a resident, or be of property within the state, or within its jurisdiction, by a non-resident, by deed, grant, bargain, sale or gift, made in contemplation of the death of the grantor, bargainor or donor, or intended to take effect in possession or enjoyment at or after such death. Every transfer by deed, grant, bargain, sale or gift, made within three years prior to the death of the grantor, bargainor, vendor, or donor, of value of five hundred dollars, or in excess thereof, at the time of such transfer in the nature of final disposition, or distribution of an estate, and without adequate valuable consideration, shall be construed to have been made in contemplation of death within the meaning of this chapter. This provision shall apply to all transfers heretofore made within the period of three years from the time this act becomes effective;

(d) If any person shall transfer any property which he owns or shall cause any property, to which he is absolutely entitled, to be transferred to, or vested in himself and any other person jointly so that the title therein, or in some part thereof, vest no survivorship in such other person, a transfer shall be deemed to occur and to be taxable under the provisions of this act upon the vesting of such title;

(e) Whenever any person shall exercise a power of appointment derived from any disposition of property made, whether before or after the passage of this act, such appointment when made shall be deemed a transfer taxable under the provisions of

37 this act in the same manner as though the property to which
38 such appointment relates belonged absolutely to the donee of such
39 power and had been bequeathed or devised by such donee by will;
40 and whenever any person possessing such a power of appointment
41 so derived shall omit or fail to exercise the same within the time
42 provided therefor, in whole or in part, a transfer taxable under
43 the provisions of this act shall be deemed to take place to the
44 extent of such omission or failure, in the same manner as though
45 the person thereby becoming entitled to the possession or enjoy-
46 ment of the property to which such power related had succeeded
47 thereto by a will of the donee of the power failing to exercise such
48 power, and shall take effect at the time of such omission or fail-
49 ure.

Sec. 2. When the property or any beneficial interest therein
2 passes by any such transfer where the amount of the property shall
3 exceed in value the exemption hereinafter specified, and shall not
4 exceed in value fifty thousand dollars, the tax hereby imposed
5 shall be

6 (a) Where the person or persons entitled to any beneficial in-
7 terest in such property shall be the wife, husband, child, or the
8 children of a deceased child, or father or mother of the decedent,
9 at the rate of two per centum of the market value of such interest
10 in such property;

11 (b) Where the person or persons entitled to any beneficial
12 interest in such property shall be the brother or sister of the de-
13 cedent (and the term brother or sister shall not include a brother
14 or sister of the half blood) at the rate of four per centum of the
15 market value of such interest in such property;

16 (c) Where the person or persons entitled to any beneficial
17 interest in such property shall be further removed in relationship
18 from the decedent than brother or sister, the rate of six per
19 centum of the market value of such interest in such property;

20 (d) Where the person or persons entitled to any beneficial
21 interest in such property shall be of no blood relation or strangers
22 to the decedent, or institutions, corporate or otherwise, except such
23 eleemosynary institutions as are hereinafter exempt, the rate
24 of ten per centum of the market value of such interest in such
25 property.

Sec. 2-a. The foregoing rates in section two, are, for con-
2 venience, termed primary rates. When the market value of any

3 such property exceeds fifty thousand dollars, the rate of tax upon
4 such excess shall be as follows:

5 (a). Upon all in excess of fifty thousand dollars up to and not
6 exceeding one hundred thousand dollars, two times the primary
7 rate.

8 (b) Upon all in excess of one hundred thousand dollars up
9 to and not exceeding one hundred and fifty thousand dollars,
10 two and one-fourth times the primary rate.

11 (c) Upon all in excess of one hundred and fifty thousand
12 dollars up to and not exceeding two hundred thousand dollars,
13 two and one-half times the primary rate.

14 (d) Upon all in excess of two hundred thousand dollars up to
15 and not exceeding three hundred thousand dollars, two and three-
16 fourths times the primary rate.

17 (e) Upon all in excess of three hundred thousand dollars up
18 to and not exceeding four hundred thousand dollars, three times
19 the primary rate.

20 (f) Upon all in excess of four hundred thousand dollars up to
21 and not exceeding five hundred thousand dollars, three and one-
22 fourth times the primary rate.

23 (g) Upon all in excess of five hundred thousand dollars, three
24 and one-half times the primary rate.

Sec. 2-b. The following exemptions from taxes under this
2 chapter are hereby allowed:

3 (a) All property transferred to a person, or corporation, in
4 trust, or use solely for educational, literary, scientific, religious,
5 or charitable purposes, or to the state or to any county, or muni-
6 cipal corporation thereof, for public purposes, provided the prop-
7 erty so transferred for purposes herein mentioned, is used ex-
8 clusively in this state, shall be exempt from all taxes under this
9 chapter.

10 (b) Property of the market value of fifteen thousand dollars to
11 a widow of a deceased person, and ten thousand dollars transferred
12 to each of the other persons described in sub-division (a), of sec-
13 tion two, shall be exempt from all taxes under this chapter, a tax
14 upon the excess of the exemptions up to fifty thousand dollars,
15 shall be computed at the primary rates; *provided, however*, that
16 the descendants of any child referred to in said sub-division (a)
17 of section two shall be allowed the exemption of the person they
18 represent, *per stirpes*, and not *per capita*.

Sec. 6. The provisions of this act shall apply to the transfer of the following property belonging to deceased persons, non-residents of this state, which shall pass by will or inheritance under the law of any other state, or country, and such property shall be subject to the tax imposed by this chapter, to-wit:

(a) The transfer of all real estate and tangible personal property including money on deposit in this state;

(b) The transfer of all intangible personal property, including bonds, securities, shares of stock and choses in action kept within this state for investment, safe keeping, or otherwise;

(c) The transfer of shares of capital stock of all corporations organized and existing under the laws of this state, the certificates of which shares of stock shall be within or without this state.

(d) The transfer of shares of capital stock of all corporations organized and existing under the laws of any other state or country and regularly admitted to transact business in this state to the extent of the value of such shares of stock represented by property actually situated in this state.

The transfers of property mentioned in sub-divisions (a) and (b) and the transfer of shares of stock mentioned in sub-division (c) of this section, after the decease of the person owning the same, shall not be legal until the inheritance tax, or transfer tax, has been paid into the state treasury and certificates of release to that effect executed by the state tax commissioner. No corporation organized or existing under the laws of this state, bank or trust company, having money on deposit, or other person having in his possession property mentioned in said sub-division (a), (b) and (c) shall make transfer thereof, unless notice of the time of such intended transfer is served upon the state tax commissioner at least fifteen days prior to such transfer, or until the state tax commissioner shall consent, in writing, thereto. Any such corporation, bank, or trust company, or other person having in his possession such property, before the inheritance tax is paid, or before official consent of the state tax commissioner thereto is obtained, shall be liable to the state of West Virginia for such amount of inheritance tax as may be collectible upon the transfer, together with any interest that may accrue thereon and in addition thereto, a penalty of five hundred dollars, which liability for such tax and interest and penalty may be enforced by a proper action in the name of the state of West Virginia.

42 No corporation whose stock is subject to an inheritance or
43 transfer tax under sub-division (d) of this section shall permit
44 such stock to be transferred upon its books, after being notified
45 by the state tax commissioner that such stock is liable to a trans-
46 fer or inheritance tax, until furnished with proper evidence show-
47 ing the payment of any such tax, or that the same is not liable
48 to a tax, and any corporation violating the provisions of this sec-
49 tion shall be liable for the amount of any tax involved and in ad-
50 dition thereto a penalty of five hundred dollars (\$500.00), and may
51 be denied authority to further transact business in this state. The
52 circuit court of the county in which the seat of government is
53 located shall have jurisdiction to enforce the provisions of sub-
54 section (d).

55 Where a deceased person was a non-resident at the time of
56 death, and owned property within this state, or within its juria-
57 diction, and also in other states, or countries, the exemptions pro-
58 vided for in section two-b, shall be operated according to the
59 value of the property in this state, or within its jurisdiction, and
60 the property in other states, or countries, and the person whose
61 duty it is under this chapter to file with the state tax commis-
62 sioner a report of the value and distribution of the property tax-
63 able hereunder, shall also include in said report the total value of
64 the property owned by the deceased at the time of his death.

Sec. 9. All taxes imposed by this act, unless otherwise pro-
2 vided, shall be due and payable ninety days after the first appoint-
3 ed executor or administrator liable therefor shall qualify, or with-
4 in four months after the death of the decedent in case letters
5 testamentary are not issued, and if not paid within six months
6 after the death of the decedent, a penalty of ten per centum of
7 the amount of the taxes shall be added, in addition to the statutory
8 interest of ten per centum which shall accrue and be determined
9 as of and from the date of the death of the decedent; *provided*,
10 *however*, that the payment of such taxes may be suspended by the
11 state tax commissioner if there be necessary litigation pending at
12 the time such taxes are due and payable, involving the estate, or
13 for other good and sufficient cause; and in case of any such sus-
14 pension the payment of the penalties hereinbefore provided shall
15 likewise be suspended; and, *provided, further*, that suits and ac-
16 tions brought for the purpose of defeating the payment of any such
17 taxes, penalty and interest, shall not be deemed necessary litigation

18 within the meaning of this act. In case of such suspension, the
19 taxes shall be payable at the time of the expiration of the sus-
20 pension. In all other cases, the taxes shall be paid as here-
21 before provided. Interest at the rate of ten per centum per an-
22 num shall be charged and collected upon all taxes and penalty im-
23 posed after the expiration of the six months aforesaid, and in
24 fixing said tax the state tax commissioner shall, in his discre-
25 tion, determine proper deductions.

Sec. 16. If within sixty days from the death of any person
2 whose estate is liable to an inheritance tax under this chapter, the
3 appraisement of any such estate is not completed and filed in
4 the manner now provided by law for the appraisement of estates,
5 then the state tax commissioner shall have authority to appoint
6 an appraiser for the purpose of appraising any such estate; *pro-*
6 *vided, however,* that the state tax commissioner shall have the
7 right of appeal to the circuit court of the county in which the
8 estate is located where an appraisement is made by the apprais-
9 ers appointed by the county court of said county for such pur-
10 poses, and the valuation of any such estate as fixed by the circuit
11 court upon appeal shall be the value upon which the tax com-
12 missioner shall assess the taxes under this chapter. It shall be the
13 duty of said appraiser, and he shall have the power, to appraise and
14 fix a value upon all property subject to the tax provided in this act,
15 which shall be the market value of the property appraised. Such
16 appraiser shall give notice to the executor, administrator, trustee,
17 or other person, whose duty it is under this act to pay the tax due
18 and collectible hereunder, of the time and place of any appraise-
19 ment to be made by him; and the posting of any such notice to
20 any such person in due course of mail, at his last known post office
21 address, stating the time and place he will sit to appraise any such
22 property, shall be sufficient. He shall at such time and place,
23 unless a different time and place be agreed upon, appraise the
24 property in the manner herein prescribed; and for the purpose of
25 obtaining information concerning the quantity and the amount of
26 any estate, or touching the value of any property to be appraised,
27 said appraiser is authorized to take evidence and to issue subpoenas
28 for and to compel the attendance of witnesses before him, to ad-
29 minister oaths, and to take the testimony of witnesses under oath
30 concerning the quantity and amount of such property, and the
31 value thereof. Such appraiser shall make report of his findings

32 and the values fixed by him, in writing to the state tax commis-
33 sioner, together with the depositions of any witnesses examined by
34 him, and such other facts in relation thereto as the state tax com-
35 missioner may require. The value of the property thus appraised,
36 except as hereinafter provided, shall be the value upon which the
37 inheritance tax under this act shall be collected; but before the fix-
38 ing of the tax, as provided in this act, shall be made, the value so
39 fixed by the appraiser shall be approved by the state tax commis-
40 sioner, who shall thereupon furnish his certificate in writing
41 to the executor, administrator, or other person whose duty it is to
42 pay the taxes under this act, by mailing same to his last known
43 post office address, of the appraised value of such property, the
44 taxes assessed thereon, as fixed and approved by him. If the
45 owner or personal representative of the estate appraised desires to
46 take an appeal from the value fixed by the appraiser and approved
47 by the state tax commissioner, as hereinafter provided, he may
48 have the evidence taken at any hearing before the appraiser tran-
49 scribed and certified by him to the circuit court of the county in
50 which the seat of government is located which the court shall have
51 jurisdiction to hear and determine such appeal upon the record so
52 certified. Either party shall then have the right of an appeal to
53 the supreme court of appeals.

54 The appraisers shall receive a reasonable compensation for their
55 services, which shall be fixed by the state tax commissioner and
56 paid out of the taxes collected under this act. He shall in addi-
57 tion thereto be allowed his actual necessary travelling expenses
58 incurred while engaged in the performance of his duties here-
59 under. He shall also have necessary stenographic and clerical
60 help, the same to be employed by the state tax commissioner and
61 paid out of taxes collected under this act.

62 Every executor, administrator or trustee of any estate subject
63 to the payment of the transfer tax hereunder, shall, within sixty
64 days after the death of the decedent, file with the state tax com-
65 missioner, under oath, a complete inventory or statement, listing
66 and showing all of the property, both real and personal, belong-
67 ing to any such estate, and the full, true and actual cash value
68 thereof, together with the names and addresses of all the bene-
69 ficiaries of any such estate, and the degree of relationship each
70 bears to the decedent. Any person failing to comply with the
71 provisions of this chapter shall be guilty of a misdemeanor and

72 upon conviction thereof shall be imprisoned for not exceeding six
73 months or fined not less than ten dollars and not to exceed five
74 hundred dollars, or may be both fined and imprisoned within the
75 limits herein prescribed.

76 All acts and parts of acts coming under the purview of this act
77 and inconsistent herewith are hereby repealed.